WAKE FOREST
UNIVERSITY
School of Law

JURIST

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STATEMENT OF
PURPOSE AND POLICY

The **Wake Forest Jurist** is published twice yearly by the Wake Forest School of Law of Wake Forest University. Its main purpose is to inform the friends and alumni of the Law School about activities and events of interest at the Law School, of recent important decisions by the courts of North Carolina and other jurisdictions, and news of the achievements and activities of fellow alumni. In this way the **Jurist** seeks to provide a service and a meaningful link between the School of Law and its alumni. Also, the magazine shall provide a forum for the creative talents of students, faculty and its alumni and an opportunity for legal writing by them. Opinions expressed and positions advocated herein are those of the authors and do not represent official policy of the School of Law.

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Cover Photo: Spectacular photograph of the Earth taken from the Apollo 11 spacecraft during its translunar coast toward the Moon. Apollo 11, with Astronauts Neil A. Armstrong, Michael Collins, and Edwin E. Aldrin, Jr. aboard, was already 98,000 nautical miles from Earth when this picture was taken. Source: National Aeronautics and Space Administration [NASA-71-HC-103].

DEAN'S COLUMN

Robert K. Walsh

On the wall of my den at home, I have a framed print of the old Lloyd's of London trading floor. This picture was obtained during a week of depositions in London in preparation for a trial that took place in federal district court in Little Rock, Arkansas. In my eight years as a trial lawyer in Arkansas, just before coming to Wake Forest, this was one of two cases that took me out of the United States for depositions. There were a number of other cases that also had the potential during that time for international travel, but they were settled before the foreign trips.

My experience was not unique in my firm or certainly in the Little Rock legal community. Lawyers in that mid-sized community far from any ocean were increasingly involved in matters having foreign or international elements, probably even more in a business transactional practice than in litigation. Many years ago it was thought that international law was really relevant only to lawyers in big firms in our largest cities. Now, however, television and other technology have shrunk the world that is immediate to us. Imports and exports have become central to the daily economic lives of Americans. More routinely than in the past, lawyers in a smaller community in Arkansas, North Carolina, or anywhere in the United States have local clients asking questions about legal problems dealing with suppliers or buyers in foreign countries. In 1949, Justice Robert Jackson, summarizing past developments in the law through the New Deal with respect to the commerce clause power, stated in *H.P. Hood & Sons, Inc. v. DuMond* that "our economic unit is the Nation." In this era of freer trade, it might be said that our economic unit is rapidly becoming the world.

Our law school has recognized this development. Certainly, we cannot spread our resources to be all things to all potential students in all areas of the law. It would not be wise, for instance, for our law school to take resources for library and faculty from other aspects of our J.D. program to create an LL.M. program in International Law for American J.D. graduates. Nevertheless, we have and will continue to add to the international and comparative law courses and programs available to students in our J.D. program.

Currently we teach courses in Public International Law, International Business Transactions, International Tax, International Civil Litigation, and Admiralty and Maritime Law. We also participate annually in an international law moot court competition with other law schools. We have put a high priority on adding another faculty member with a strong interest in comparative and international law. Adding a survey course in Comparative Law and a course on the Law of the European Community are some of the specific areas that have been discussed.

In addition to preparing our graduates to answer questions from clients in the world economic community, comparative law courses add another strength to our program. I am convinced that lawyers who understand the policies behind substantive legal doctrine win arguments in court on those legal questions in cases of first impression or those on the margin of the development of that legal area. Comparing the development of legal issues in criminal law, torts, or any substantive area with the law of other countries deepens the understanding of our own doctrines and helps better prepare future American practitioners.

The legal stage has become the world.

DEAN'S COLUMN

One current enriching opportunity for our students is our summer program in London. Wake Forest University owns the Worrell House, a lovely large house in a residential area in the northern part of London. During the academic year, it is used by Wake Forest undergraduate programs. Each summer for the past eight years, the law school has had a program there involving two faculty members and sixteen students. The program always involves courses in the English legal system and of a comparative or international nature. In addition to the formal classroom courses, students have met with distinguished foreign lawyers, barristers, jurists, and academics and made field trips to the Inns of Court, the Old Bailey, and other legal institutions in England. Most of the students go to the London program between their first and second year of law school. The students to whom I have talked concerning the London program have been universal in their praise of its broadening experience. Preliminarily, I have discussed with our faculty and university administration the idea of beginning a second summer program abroad, probably on the European continent, perhaps by the summer of 1992.

In my last article in the *Jurist,* I discussed potential innovations in elective business and corporate courses in the upper years of the J.D. program as we move into the Worrell Professional Center. Certainly, the Babcock Graduate School of Management has become more heavily involved in international aspects of business. The Babcock School has an institute in International Studies and had a well publicized visit last year from a group of Soviet managers. The Babcock School will have international programs, both curricular and extracurricular, that will be of interest to our law students.

The legal stage has become the world. I salute the editors of the *Jurist* for having this issue focusing on current developments in International Law.

EDITOR'S PAGE

A single photograph made us realize that the Earth is not only beautiful and isolated . . . but it is also a global village. The spectacular photograph of the Earth on the cover of this magazine depicts what we all have in common . . . despite our differences in race, color, creed, or religion: We are all citizens of the planet Earth. If we destroy the Earth, we literally have nowhere else to go.

The theme of this issue of the *Jurist* is "Current Developments in International Law and Politics." Whenever there is a threat of war between powerful countries, it takes the masterful skills of diplomats, politicians, and lawyers to search for peaceful solutions. Hopefully, this issue will provide you with useful information. Please read the feature article for expert opinions on current developments in international politics. Also read, the legal article by Professor George K. Walker, an expert on international law.

On a personal note, I thank my staff of busy law students for always finding time to do the writing, editing, and photographing which made this issue possible.

I thank Donna Colberg and Ken Carlson, last year's editors, for giving me the opportunity to continue the challenge of making the *Jurist* the nation's best alumni magazine.

I thank Noel Sugg, our administrative assistant, for being the Jurist's oral historian and for providing continuity as each succeeding staff graduates. I thank Linda Michalski, our advisor, for permitting the editorial board to experiment with a new format for this magazine.

I thank Dr. Maya Angelou, Reynolds Professor of American Studies and "Mwalimu Mkuu," for finding time in her busy schedule to review "A Decade of Deliverance."

Finally, I thank Mrs. Loreno Marrow, now deceased. She was the advisor for the N. C. A & T State University's *"A & T Register"* which is a great and historic student newspaper. I thank Mrs. Marrow and the old staff of the *Register* for giving me four years of rigorous, meticulous, and creative journalistic training.

Patricia A. Everett

photo by Killens

Board of Editors (left to right): Patricia A. Everett, editor-in-chief; Barbara Allen, photography editor; Rita Sampson, alumni news editor; Aimee Richardson, law school news editor; William L. Funderburk, Jr., executive editor (seated).

FEATURE STORY

Political Science Professors Discuss the Persian Gulf Crisis, and the Soviet Union

PERSIAN GULF

Professor Richard D. Sears is the Director of International Studies and a professor at Wake Forest University. He specializes in international politics and has been a professor at this University since 1964.

On August 2, 1990, Iraq invaded Kuwait. President George Bush responded by sending military equipment and hundreds of thousands of American troops to Saudi Arabia. He also froze

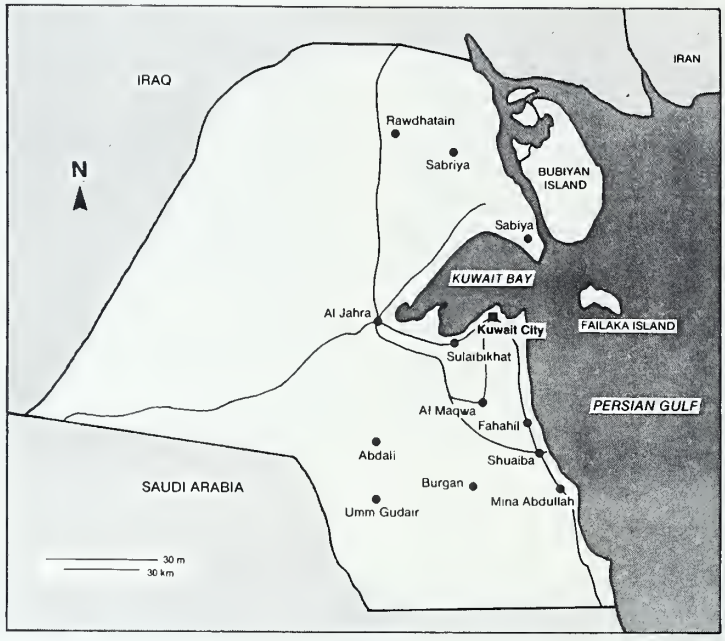
photo by Allen

Richard D. Sears

Iraqi and Kuwaiti assets, and organized an economic embargo against Iraq.

Professor Sears has followed the current Persian Gulf crisis closely. He stated, "As far as this particular conflict is concerned, its roots are not primarily religious or cultural in nature. The West, including the United States, is concerned about whether it can continue to have access to the oil in an area which makes up a significant portion of the whole world's oil reserve. To a lesser degree it is concerned with how the handling of this crisis may help shape a post-cold war world order."

KUWAIT



Maps on File

The Persian Gulf is an arm of the Arabian Sea. The countries which border the Gulf are Iraq, Kuwait, Saudi Arabia, Iran, Qatar, and the United Arab Emirates. Economically, the Persian Gulf is important because of its huge oil reserves. Iraq's major industry is oil production.

Strategically, the Persian Gulf is important because it is through this waterway that much of the oil production of these Gulf states is exported. The Strait of Hormuz, which links the Gulf and the Arabian Sea, is less than 70 miles wide and thus creates the potential for effective blockage.

Although Iraq borders the Persian Gulf, it only has approximately 18 miles of shoreline. Furthermore, Bubiyan Island, which is part of Kuwait, blocks a significant portion of Iraq's limited shoreline. Thus, Iraq is essentially landlocked.

In sharp contrast, Kuwait has an abundant shoreline and excellent ports. By invading Kuwait, Saddam Hussein gained control over that country's oil production and pricing as well as access to the Persian Gulf to export Iraq's oil.

Sears explains the evolution of Iraq's current invasion of Kuwait. He said, "There is a significant historical background to this. Even before Hussein, other Iraqi governments had claimed part of Kuwait. The British had been the dominant colonial presence in the Persian Gulf. When Iraq, Kuwait, and others were given their independence, the Iraqis protested that they had been treated unfairly and that Kuwait was given a part of Iraq. You can say that there were long-term grievances out there for everyone to see."

Iraq came under British control in 1916, but later gained its independence in October, 1932. Kuwait gained its independence from Britain in 1961. Shortly afterward, Iraq claimed that

Department of Defense

An AH-64 Apache prepares for take-off at a base in Saudi Arabia.

Britain had included some of Iraq's land within the Kuwaiti border. Iraq had other territorial disputes with Kuwait in 1973 and 1976. If Iraq could control the disputed border territory, then it would have access to one of Kuwait's richest oil fields.

In 1979, Hussein became president of Iraq. In 1980, Hussein abrogated a 1975 border agreement which Iraq had signed with Iran. Within days, a territorial war resulted between the two countries. Sears noted that Iraq fought this war in part to get better access to the Persian Gulf. It is reported that after the Iraq-Iran war, Iraq owes more than $50 billion to Western institutions and Arab countries, and that Iraq is essentially bankrupt.

Sears noted, "Hussein recognized that if he were to gain his objective in Kuwait in the face of what may have been to him a surprisingly strong response from the United States and from the Arab World, then he needed to get rid of some of his lingering problems. Such problems included the very poor relationship he had with Iran as the result of the war.

"To do this, Hussein went to the rather astonishing extent of agreeing to make a peace treaty with Iran which was quite favorable to her. In effect, he gave up everything that he fought the war for at the cost of an incredible number of human lives.

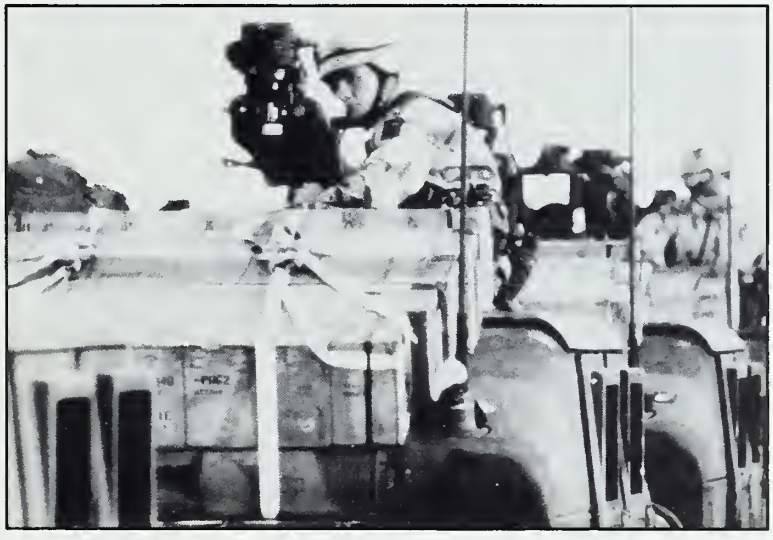
"Also, he knew that Iran and the United States had very poor relations. Perhaps Hussein thought that Iran would help him break the sanctions by allowing goods to come into Iraq through Iran. Apparently, that has not happened so far." Sears explained that despite an international effort, the United States has an overwhelming military presence in Saudi Arabia. "This is partly because the United States, except for the Soviet Union, is the only country that has sufficient troops available. Also, the United States has been regarded as the leading protector of Western interests since World War II. When you are the leader of the alliance there is a tendency for others to lag back and let you make the major commitment." Sears said.

He continued, "In the case of the Persian Gulf, there is a recognition that common interests are involved. There is a strong desire to get Hussein out of Kuwait. On that, there is a consensus among the United States and its allies. But at the same time, our allies are fearful of the consequences of force being used. Our allies, even more than the United States, have been desperate to see if some way short of war can be found to resolve this problem. One reason for this is that Europe and Japan are far more dependent on Persian Gulf oil than we are, and thus more wary of the disruption war would bring.

"Yet, these countries recognize that if they push too hard for peaceful or compromise solutions, this would send the wrong message to Hussein. Congressional doubters face this dilemma as well. Too many calls to let sanctions work might undermine the prospect that Hussein may actually withdraw from Kuwait, while too few calls might encourage President George Bush to use force."

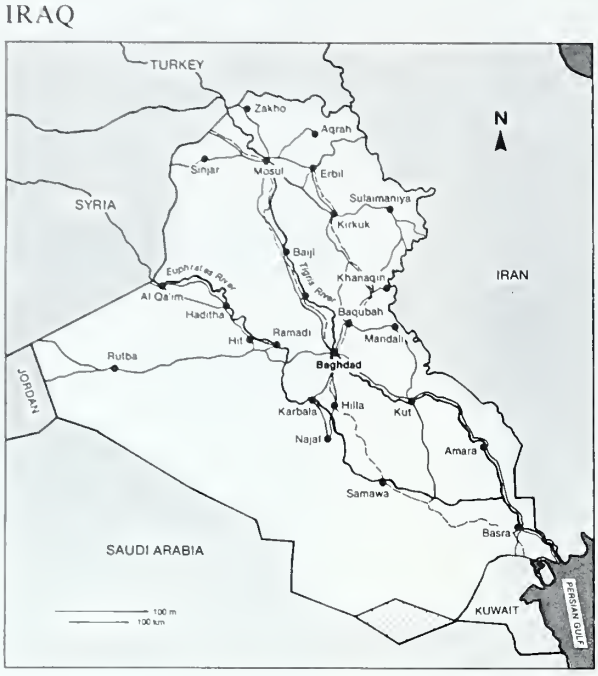
Sears discussed the inhibitions that the United States might have about using force against Iraq.

Sears said, "One of the main inhibi-



Department of Defense

Paratroopers of the 82nd Airborne Division in a convoy to a Saudi Arabian desert.



Maps on File

tions is the kind of damage that Hussein could do to the Kuwaiti oil fields and possibly the Saudi oil fields as well. Hussein could try to wreck as much of the oil industry in the Middle East as he possibly could. He could blow up his own oil fields if he wanted to.

"He cannot really destroy the reservoirs of oil, but Hussein can make it incredibly expensive to get the whole thing operating again. You could be talking about years before the oil industry gets back to normal. The United States must also be cognizant of the negative result in the Arab world of any American-led crushing of a brother Arab state—even one led by so widely detested a leader as Hussein."

Sears then suggested a peaceful way that Hussein could get out of his present situation and pull his forces out of Kuwait. "The way out for Hussein would be for the United States to explicitly offer that if Hussein withdraws from Kuwait, then the United States and the West would guarantee that Hussein's border and other grievances would be addressed in some international forum.

"If the United States were willing to make such an offer more explicit than it has so far, then Hussein could claim to his own people that by invading Kuwait he had managed to get legitimate Iraqi grievances recognized. This might be sufficient to allow Hussein to back off if he did not see any other options. On the other hand the United States and the West could claim, with some credibility, that the goal of frustrating aggression had been achieved and announce victory," Sears said.

"[T]he United States has been regarded as the leading protector of western interests since World War II."

Sears noted that it does not seem likely that stability in the Persian Gulf will result from either a peaceful or military solution. A result short of war will presumably leave an aggrieved Hussein with a huge army. Within a relative short period of time, he might possess nuclear and other weapons of mass destruction. Such a situation will keep tension high in both the Gulf and beyond.

"But a full scale war might devastate much of the area. If this happens, there could be a period in which oil supplies will be drastically curtailed as countries and corporations reconstruct their oil refineries.

"A war which topples Hussein would leave many Arabs, and perhaps Iran as well, further embittered over Western interference in the Middle East and fearful of a permanent American hegemony. Such hegemony would probably be symbolized by a continued American military presence in the Gulf whether there is peace or war," Sears said.

USSR

Professor Carl C. Moses is presently acting chairman of the Department of Politics at Wake Forest University. He teaches a course on Soviet politics and has been a professor at this university since 1964.

Professor Moses has observed the Union of Soviet Socialist Republics (USSR) for over 30 years. He believes that the United States and the USSR will continue to have a good relationship. He also believes that the USSR is genuinely

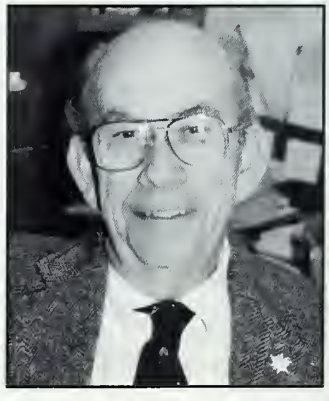


Photo by Allen

Carl C. Moses

EAST EUROPE

Maps on File

moving toward a more western-styled democracy, and away from its historical authoritarian form of government.

As for the United States-USSR relationship, Moses said, "The old days of labeling the USSR as the evil empire are long gone. By and large, the United States and the USSR will have relatively cooperative political relations. I think the relationship will be more like a normal relationship between governments. There will be more mutual respect and tolerance for one another."

Moses said that the USSR's movement toward a western-styled democracy is evident in the selection of Mikhail Gorbachev as General Secretary of the Communist Party of the Soviet Union (CPSU) in 1985. Recently, Gorbachev's title was changed to President of the USSR. With this new title, the Soviet top government leadership is no longer a divided executive of Chairman of the Presidium of the Supreme Soviet, and Chairman of the Council of Ministers. Now, the position of Chairman of the Council of Ministers (which Gorbachev has not held) is definitely subordinate to that of President.

In 1985, Gorbachev succeeded the late Konstantin U. Chernenko as General Secretary of the CPSU. Gorbachev was the youngest Soviet leader since Joseph Stalin succeeded Vladimir Lenin in 1924. In 1978, he was appointed agricultural secretary of the Central Committee of the Communist Party. During his earlier days, Gorbachev was a party official for 22 years in the Southern district of Stavropol.

But Moses noted that the change in the Soviet leader has been gradual, "I think Gorbachev is representative of the new Soviet political leader. This change was not all that abrupt. It started with Nikita Khrushchev—even continued with Leonid Brezhnev."

Khrushchev became head of the Communist Party in 1953 and head of the government in 1957. In 1964, Brezhnev succeeded Khrushchev who was ousted from his position. After Brezhnev's death in 1982, Yuri Andropov took office. In 1984, Konstantin Chernenko replaced Andropov after Andropov's death. Chernenko died in 1985 and was replaced by Gorbachev.

Moses said, "Gorbachev got to where he is because of personal skills and talent. He was brought into the higher level of leadership by Brezhnev. Gorbachev was sort of a protege of Brezhnev. Andropov, who followed Brezhnev, took him even higher.

"Gorbachev and Grigory Romanov were principal contenders for General Secretary. Romanov was a party secretary for defense industry administration. We do not know through what exact process, but somehow or other the Party higher ups chose Gorbachev as top party leader."

Taking office after Chernenko's death, Gorbachev implemented policies of "glasnost" and "perestroika." Glasnost refers to openness and a willingness to permit Soviet citizens more freedom of expression. Perestroika means restructuring, especially of the economy.

But Moses noted that these policies began before Gorbachev. Moses stated, "The ability of Soviet citizens to express ideas was intermittently tolerated with Khrushchev. In a way perestroika and glasnost began under Khrushchev. Although he might have never used the terms, he had the idea. Khrushchev was sort of on and off about the free expression of ideas. Sometimes he would get tired of it and put clamps on artists and others. But still he tolerated a lot of criticism. He probably could not help it since he was not in a position of sole power comparable to Stalin. He might have also tolerated it because of his more open personality.

"Khrushchev did not aspire to the same level of autocratic rule as Stalin, and Brezhnev likewise. Both of these men followed practices within the authority structure that were quite different from Stalin. These Soviet leaders had regular meetings of the organs of the government and the party, like the Council of the Ministers (government), and the Politburo (party). At these meetings, there was a lot of give and take of ideas. Such expressions of ideas went on, but they were not publicized."

But Moses stated that perestroika and glasnost might have brought Gorbachev some problems. As examples, he cited Lithuania's secession effort, and Boris Yeltsin—a sharp critic of Gorbachev.

Moses noted that Lithuania, one of the 15 Soviet republics, tried to secede from the USSR in 1990. There are over 90 nationality groups in the USSR, with the Slavic nationality groups making up about 70 percent of the population. The Lithuanians comprise one of the minority nationalities in the USSR.

Moses said, "Lithuania existed way back then in the medieval and early modern times and was one of the powers in that part of the world as far back as at least the 13th century. They were conquerors themselves and conquered sections of the Poles' territory. They have a distinctive culture which is Roman Catholic as opposed to the Eastern Orthodox religion. They have their own language; and they are very proud people. To some extent this is true of the other two Balkan countries, Estonia and Latvia.

"Seceding is not as easy as the Lithuanians seem to think because there is a great network of economic and technological interrelationship among the 15 Soviet republics. Gorbachev is willing to see significant changes in the structuring of his multi-national country. But I think Gorbachev is wise enough to see it will take a lot of time and there are a lot of difficulties involved.

Photo by Allen

St. Basil's Cathedral, Red Square Moscow

"Secession will be rather difficult because the Lithuanians have to consider what kind of concessions the Soviet Union would need to make to individual parts or countries and the kind of concessions they, in turn, would need to make. Both sides will have to agree to compromises."

Department of Defense

Ronald Reagan and Mikhail Gorbachev

Next Moses discussed the problems that Gorbachev has with Boris Yeltsin, President of the Russian republic.

Moses said, "The new freedom of expression of ideas can lead to confusion. I think it leads to some tendency toward irresponsibility in terms of criticizing and opposing. Yeltsin, for example, is very critical of Gorbachev. Yet he is not sufficiently responsible for what he says, and how he says it.

"Yeltsin is more a figure in the Russian republic party leadership and has a very dynamic personality. He began as a fairly enthusiastic supporter of Gorbachev. Yeltsin was interested in perestroika and glasnost. But, he apparently became convinced that Gorbachev was too slow and too cautious. He became increasing critical of Gorbachev.

> "The old days of labeling the USSR as the evil empire are long gone."

"He first talked about this perestroika and glasnost as good for the whole country, but then he became head of the Russian republic government. So now, he is talking about leading Russia on to an autonomous if not independent position; that is, independent of the USSR."

According to Moses, because of Yeltsin's popularity it would be damaging for Gorbachev to quiet Yeltsin's criticisms. Moses noted that some Soviet politicians say that many of the current problems the USSR is experiencing come from glasnost and perestroika. Such politicians would prefer that Gorbachev be more authoritarian—to say what is what, and make people shape up and do right.

"Within the population of the USSR, Gorbachev has a tenuous situation. It is often said that he is more popular abroad than he is in his own country. I think, this is because the Soviet people expect him to make magical transformations. They want him to put everything right quickly, and he simply has not been able to do it. It is beyond the ability of any human being to suddenly make everything right," Moses said.

By Patricia A. Everett, a third-year student from Ahoskie, NC; and Rita Sampson, a second-year student from Norfolk, VA.

LAW SCHOOL NEWS

Groundbreaking Ceremony for:

Worrell Professional Center for Law and Management

Photo by Clark

Groundbreaking ceremony (left to right): John B. McKinnon, Anne Worrell, T. Eugene Worrell, John G. Medlin, Jr., Weston P. Hatfield, Robert K. Walsh, Sandra K. Gallant, and Thomas K. Hearn, Jr. (standing).

The groundbreaking ceremony for the Worrell Professional Center for Law and Management was held on September 11, 1990, at the site of the future building.

The site of the $26.5 million Worrell Professional Center is near the water tower, a well-known landmark, on Wake Forest Road. When completed, the Center will be approximately 178,000 square feet. The Center will house both the School of Law and the Babcock Graduate School of Management, and is expected to open in the fall of 1992.

Thomas K. Hearn, Jr., president of Wake Forest University, introduced the special guests on the platform. He said, "These people represent the gifts and the leadership which made this building possible." The special guests were T. Eugene and Anne Worrell, philanthropists; Sandra K. Gallant, widow of Wade M. Gallant, Jr.; John G. Medlin, Jr., chief executive officer of First Wachovia Corporation; and Weston P. Hatfield, chairman of the board of trustees at Wake Forest University.

Robert K. Walsh, dean of the School of Law, said, "The new Worrell Professional Center will more than double our space. It will be a more economical use of space than if we had if we built two separate schools." He noted that the schools will each have a separate entrance to the Center. Such entrances symbolize the distinct identities of each school.

Walsh explained the appropriateness of the names, Worrell and Gallant. He noted that T. Eugene Worrell ('40) used his legal training to become a national business leader. Wade Gallant, Jr. ('55), for whom a library reading room will be named, was a corporate lawyer. The words "Professional Center" are included so that the graduates can bear in mind that they are professionals. Walsh said, "This is a unique opportunity in American legal education. No other law school has this opportunity of interdisciplinary activity."

John B. McKinnon, dean of the Babcock Graduate School of Management, said, "I am convinced that this is a great opportunity. During my 30 years in business, I spent a lot of time with lawyers where I always wished that they knew more about business. I am sure they wished that I knew more about law."

Cesar Pelli, a nationally renowned architect, admitted that the moment was emotional for him. He designed the Worrell Professional Center to blend with the character of the other buildings at Wake Forest University. He said, "A building has to be not only beautiful but also appropriate to the purposes, and to the people who will use it." In closing, Pelli said that the courtyard in the Center will serve a unique purpose because it is there that "friendships can be established and nurtured, and ideas about the different disciplines can be exchanged and lives enriched. So for all of this, I feel very grateful to Wake Forest."

By Patricia A. Everett, a third-year student from Ahoskie, NC.

Profiles: Changes in Law School Faculty

The law school has several changes in its faculty this academic year. Marion W. Benfield, Jr. is the first to hold the Wake Forest Distinguished Chair in Law; Michael K. Curtis, and William A. Kaplin are visiting professors; and Richard G. Bell has retired.

Benfield, a 1959 graduate of the law school, teaches Contracts and Commercial Law. After undergraduate studies at Garner-Webb and the University of North Carolina and law studies at Wake Forest, Benfield was a member of the Institute of Government at the University of North Carolina. From 1961 to 1963, he pursued private practice at Smith & Benfield in Hickory, NC.

He came to Wake Forest from the University of Illinois where he held the Albert E. Jenner, Jr. Professor of Law Distinguished Chair. He has been a

Marion W. Benfield, Jr.

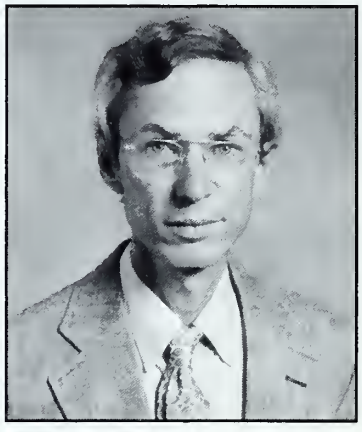
visiting professor at numerous schools including Peking and Shenghen Universities in China.

Benfield is a member of the American Law Institute, was formerly a reporter draftsman for the Uniform Land Acts (U.L.A.), and is now a member of the Joint Editorial Board for the U.L.A.. He also sits on the permanent editorial board of the Uniform Commercial Code and has been a commissioner for the Uniform Laws Commission in both Illinois and North Carolina.

"I think I'll stay here," says Benfield, "I was impressed by the number of changes Wake Forest has made in the last few years, both in the law school and the university since I got my law degree here."

In his spare time, Benfield enjoys tennis and running. He has eight children and fourteen grandchildren. Benfield noted that his favorite hobby is reading.

Professor Michael K. Curtis is a partner in the firm of Smith, Patterson, Follin, Curtis, James, Harkavy & Lawrence. He is a cooperating attorney



Michael K. Curtis

with the North Carolina Civil Liberties Union, and was a lawyer in residence at the Francis Lewis Law Center at Washington and Lee University. Curtis

William A. Kaplin

received his undergraduate degree from the University of the South and his law degree from the University of North Carolina. He teaches Agency, and American Legal History at the law school.

William A. Kaplin teaches a new law and education course. He also teaches a First Amendment Seminar, and a Constitutional Law course. He has been a professor at Catholic University in Washington, D.C. since 1970, where he was founding director of the Clinical Program in Law and Public Policy. Kaplin graduated from Cornell University Law School in 1967. He received his undergraduate degree from Rochester in 1964.

As new professors arrived, the law school has said farewell to some dear friends. Arthur Gaudio, former associate dean, academic affairs, is now the dean at the University of Wyoming School of Law.

Richard G. Bell retired and is now

Richard G. Bell

professor emeritus of the law school. Bell taught at the law school for 25 years. He taught Agency and Partnership, Decedents' Estates and Trusts, and Uniform Commercial Code courses.

By Brian Flatley, a third-year student from Boston, MA.

Foy Appointed Associate Dean, Academic Affairs

H. Miles Foy, III

H. Miles Foy, III, was appointed the associate dean, academic affairs, for the law school on July 2, 1990. Foy joined the university in 1984 as an associate professor of law. He became a professor of law in 1987.

Despite the new appointment, Foy continues to teach Contracts to first-year students. "Teaching is still the most rewarding thing I do at the law school. Teaching is the primary mission of the law school," said Foy.

Foy described his new duties as helping students and faculty members with problems encountered in the day-to-day functioning of the law school. This includes scheduling classes, handling course load matters, attending meetings, and overseeing committees.

Foy spoke about the growing national reputation of the law school. He praised Carrie Bullock, director of the placement office, and Robert Walsh, dean of the law school, for their efforts in placing students and graduates in a greater number of national jobs. Foy said that this wide range of placements is good for students because they go to diverse parts of this country. Also, it is good for this country because the law school puts out good lawyers.

As for the law school alumni, he is amazed and grateful for their level of support. Foy stated that the law school administration will continue to communicate with the alumni, and it is open to any suggestions from them.

By Mary Balthasar, a second-year student from Buffalo, NY.

IN MEMORIAM

Gwendolyn Peeler Glass
September 17, 1990

A memorial service for Gwendolyn Peeler Glass, a faculty secretary, was held at noon on September 19, 1990 in the law school courtroom. Gwen Glass was killed in an automobile accident on September 17 while on her way to work. She had been a member of the support staff of the law school for six years.

Robert K. Walsh, dean of the law school, spoke on "Why We Are Here." Remembrances were provided by Tiana Hinnant, representing the student body; Professor Butch Covington, representing the faculty; and Marjorie Bass, for the support staff. Noel Sugg, a member of the support staff, sang "The Greatest of These," and LeAnn Joyce, registrar, provided piano music. Ed Christman, chaplain for Wake Forest University, closed the service with a prayer and benediction.

Gwen was a much-loved friend and employee of the law school. She was "Mama" to many of the students, both past and present. Students often stopped by her office for a friendly hello or words of encouragement.

She loved life, laughter, animals, and God's world. She loved history, rocks, and birthdays.

Gwen loved Wake Forest and felt a deep sense of pride in her own contribution to the lives of the students. She had a deep loyalty to the professors she worked for—Professors Don Castleman, Butch Covington, Ralph Peeples, Tom Roberts, and Hugh Divine. She took great pride in the work she did for them.

She was a wife, mother, grandmother, and good friend. The law school will miss her. Her funeral was held on September 20, 1990, at Whitley's Funeral Home in Kannapolis, NC.

A memorial fund has been established in her memory by the law school employees. The fund will be used for the purchase of a print to be hung in the new Worrell Professional Center.

By Marjorie Bass, friend and member of the law support staff.

Belton Speaks on Civil Rights in the Workplace

On October 19, 1990, Robert Belton spoke on "The Judicial Enforcement of Civil Rights in the Workplace." Belton is a law professor at Vanderbilt University, but currently is a visiting law professor at the University of North Carolina at Chapel Hill. The address was sponsored by Wake Forest University and the Wake Forest School of Law in celebration of the Bicentennial of the United States Constitution.

Belton premised his speech on the idea that the role of the law is to "protect the weaker party." He began by noting that the employment relationship is probably one of the most heavily regulated relationships in our society. One reason for such regulation is to introduce a concept of fairness into the relationship. The second reason stems from the observation that individual workers lack power in the labor market to bargain for their own interests. Belton emphasized that if the role of the courts is to protect the weaker party in the employment relationship, it follows that the courts have an important role in enforcing laws that regulate the relationship.

According to Belton, the Supreme Court since *Griggs v. Duke Power* in 1971, "has gutted the role that the courts play in stepping in to protect the weaker party."

Belton argued that the gutting of the *Griggs* decision began in 1977 and was finally completed with the Supreme Court's decision in *Wards Cove Packing Co. v. Antonio* in 1989. In *Wards Cove,* the Court adopted a definition of discrimination that requires a plaintiff to show that the employer intentionally discriminated in the workplace. Belton noted that this decision's effect was to "completely dismantle the *Griggs* disparate impact theory" and its vision of equality in the workplace.

Belton then argued that the *Wards Cove* decision envisages workplace equality as a policy which does not "take race, sex, or national origin into account in making employment decisions." He asked the audience to consider what the work force would look like if we were successful in accomplishing this so-called "equality principle."

Belton suggested that one possible price for accomplishing this goal would be that "some groups in our society would have to give up some of their distinctive features that they value highly." He said that this may be a price too high to pay, because we would give up our notion of diversity. Under a principle of workplace equality that includes diversity, we appreciate the value of cultural and sexual "distinctiveness and values."

By Barbara A. Allen, a third-year student from Charleston, WV.

Pokela Wins Stanley Competition

David Pokela and Kent Ford went head-to-head in the final round of the 19th Annual Edwin M. Stanley Moot Court Competition (Stanley). On November 2, 1990, the final round was held in the law school's courtroom. David Pokela ultimately won the competition and a $200 cash prize. He also received the award for "Best Oralist." Ford received the award for "Best Brief."

The Stanley problem involved the Fair Housing Act of Title VIII, and the Equal Protection Clause of the 14th Amendment. The issue was whether a town could enact a race specific statute in an effort to maintain a certain level of racial integration. The purpose of the statute is to combat the phenomenon of "tipping" which occurs when Caucasian families flee a neighborhood due to the increase of African-American families.

A three-judge panel heard the arguments. The panel was comprised of James Exum, Chief Justice of the North Carolina Supreme Court; James Browning, Judge of the Ninth Circuit Court of Appeals; and Joseph Bellacosa, Judge of the New York Court of Appeals. The panel aggressively fired questions and thus gave the finalists real experience in advocating difficult positions.

Jeffrey Whittle, Chief Justice of the Moot Court Board, said, "The competition was well-run. I appreciated the time and effort put into the competition by the Stanley Committee and the participants. The judges were great because they were prepared and understood the problem. They were genuinely interested in the problem and in the students."

Sarah Fischer and Elizabeth Porras were co-chairpersons of the Stanley Competition Committee. Initially, 52 students participated in the competition which lasted five weeks. Each participant had to write a brief and give oral arguments before a three-member panel of Moot Court judges. After each participant made two oral arguments, the field of participants was narrowed to the top 16 participants. These 16 participants were eliminated in each successive round of the competition, with Pokela and Ford meeting in the final round.

By Tamara Rorie, a third-year student from Charlotte, NC.

McNear Wins Student Trial Bar Competition

Bob Drake was acquitted of armed robbery in a tense, emotion-paced trial in Carswell Hall on October 11, 1990. Drake allegedly robbed two Wake Forest law students in a dark alley in downtown Winston-Salem. After reading the verdict, Judge Shirley Fulton announced that Susan McNear won the Student Trial Bar First-Year Competition.

McNear and her opponent, Keith Burns, argued over the fate of the fictional Bob Drake in front of a mock jury of law students and Judge Fulton of the Mecklenburg County Superior Court. Judge Fulton congratulated both competitors for their outstanding efforts, but set Drake free because of "a very touching final statement" by McNear, his attorney.

Each fall the Student Trial Bar holds a competition for first-year students. The Student Trial Bar is a student-run service organization for students interested in trial advocacy. Admission to the Student Trial Bar is gained only through competitions. Over 100 first-year students competed, but only 16 were selected for an elimination tournament and for admission.

Keith Burns, arguing for the state, used two law students as fictional witnesses to bolster his contention that Drake was an armed robber. McNear countered with an alibi witness and flaws in the prosecution's identification of Drake. McNear compared the concept of reasonable doubt to problems with a new car.

"When you drive it out of the showroom, you hear a little noise in the back," she whispered, "that little noise, ladies and gentlemen, is reasonable doubt, telling you there is something wrong with the state's case."

Burns counterattacked by comparing the state's circumstantial evidence to a weather forecast. "On the news last night, the weatherman said there was a storm front moving in, and that it would rain overnight, but when I got up the next morning, I didn't see it raining, but there sure were a lot of puddles around," Burns said.

McNear is from Duncanville, TX. She received her undergraduate degree in political science and psychology from the University of Kansas. Keith Burns is from Laurinburg, NC, and holds an undergraduate degree in political science from the University of North Carolina.

By Brian Flatley, a third-year student from Boston, MA.

Battle of the Grads: A Night of Basketball

October 2, 1990, set the stage for an aggressive night of basketball in Reynolds Gymnasium at Wake Forest University. For the third year, the Student Bar Association sponsored the "Battle of the Grads" to raise money for the United Way. The teams consisted of faculty, administrators, and students from the law, medical, and business schools.

The law school team and the formidable medical school team were the first to play. The law school tried to keep the game close. At half-time the medical school led with a score of 27-25.

The energetic play continued through the second-half. The intense efforts were predictable given that the court was filled with players who were accustomed to finishing first in everything since their days in elementary school. So, a loose ball often resulted in a pile-up. Ultimately, the medical school won with a final score of 55-45.

Next, the medical school played the business school team. The medical school won again with a score of 44-35.

Law School Team Photo by Redmon

The final game was between the law school and the business school. This was a more controlled game than the previous two games. The law school was able to execute their plays on the way to a 51-41 victory.

The medical school, the law school, and the business school placed first, second, and third respectively.

After all the games were over, the three teams and their fans adjourned to the law school patio for refreshments, and to toast the real reason that all had gathered that evening—to help the United Way.

The faculty and administrators players for the law school were Dean Robert Walsh, Associate Dean H. Miles Foy, III; Professors I. Boyce Covington, Thomas Roberts, William Kaplin; and Bruce Thompson and James Bullock, from the alumni office. The law school student players were Jim Jacobs, Steve Loew, Paul Adams, Jim Baressi, Steve Fischer, Jeff Whittle, Scott Wyatt, Steve Jackson, and Mark Gilling.

By Gant Redmon, a second-year student from Alexandria, VA.

Williams Called to Active Duty in Saudi Arabia

Kathy S. Williams

First Lieutenant (1LT) Kathy S. Williams is now on active duty in Saudi Arabia, having been called to duty as a part of Operation Desert Shield. She is a platoon leader assigned to the 398th Supply Company (HM) (GS) (U.S. Army Reserve), Greenville, NC. She was enrolled as a third-year student at Wake Forest.

Williams said, "I knew that I would probably be called to active duty. But my heart said, Please don't take me. I have only one more year in law school."

On October 18, 1990, Williams received notification that her unit had been mobilized for movement to the Arabian theater of operations. The following day she withdrew from school and reported to her unit in Greenville. She and her unit reported to Fort Bragg, NC, for pre-mobilization operations on October 23, 1990.

Prior to her unit's move to Fort Bragg, she directed the transfer of all of her unit's military equipment from Greenville to Charleston, SC, where it was loaded on ships for movement to Saudi Arabia.

Williams is originally from Greenville. She is the platoon leader of the largest platoon in the 398th which has 48 soldiers, both men and women. She oversees her 48 soldiers as they receive, catalog, store, maintain, and issue heavy materials and equipment in support of a corps.

"It is going to be a challenge. Of course, no one really wants to go over there. There is a chance of chemical attack, and we may never come back. But I feel good about being in the military. It is a mission I have to accomplish. I would not let my people go without me," she said.

"I hope God watches over all of us and brings us all back alive," she later said.

As for her law studies, she stated, "When I come back I might be like a 1L again. I will have to get back into the frame of mind of studying. But maybe the military will make me more disciplined and there will not be a problem."

Williams hopes that her tour on active duty will end in March of 1991. But that is now in question as Congress authorized mobilization commitments to be extended to 12 months from their present duration of 6 months. If she is released in March, she will be able to return to school for the 1991 fall semester. Until then, she wants plenty of letters from everyone. "Tell the faculty and students that I miss all of them. Tell the 2Ls to leave a space for me," she said.

Williams and her unit left Fort Bragg for Saudi Arabia on Saturday, November 3, 1990. To date, she is the only law student from Wake Forest to be called to active duty. According to her, reservists play an important role in the military since many of them provide critical support services to the combat troops.

Other Wake Forest law students who are reservists are: Mark Becker, a Special Forces A team leader in C Company, 3d Battalion, 11th Special Forces Group, Winston-Salem; Philip Teague, an infantryman and M113 armored personnel carrier driver with Detachment 1, B Company, 3d Battalion, 120th Mechanized Infantry Regiment, Mocksville; Steven Levin, a Judge Advocate General intern with the 105th Engineer Group, Winston-Salem; and Martin Gottholm, UH-1H helicopter pilot with B Company, 4th Battalion, 158th Aviation Regiment, Boston, MA.

By Patricia A. Everett, a third-year student from Ahoskie, NC.

London Program Fosters Understanding

The London Program affords Wake Forest University law students an opportunity to study the English legal system in London. Each spring, 16 students are selected on a first-come-first-served basis to participate in this four-week program in which two courses are offered.

T. Eugene ('40) and Anne Worrell donated "The Worrell House" to Wake Forest University in 1977. The house, which is located in a London suburb of Hampstead, was originally built as an artist studio in the mid-1870's. All of the students and professors live in the Worrell House which has adequate living space as well as a library.

This past summer Associate Dean H. Miles Foy, III, taught History of the Common Law, and Professor Don R. Castleman taught Comparative Criminal Procedure.

Foy found the program to be beneficial to the students and to the professors. The classes were small so there was time for in-depth discussions of the subjects. Each student researched a topic and gave a

class presentation. Additionally, several British professors spoke.

The program also allowed the students the opportunity to see barristers, the American equivalent to trial lawyers, argue in their traditional black robes and white wigs.

Michael Conway, a second-year student, participated in the program this past summer. He found that living in London reinforced his understanding of the history of the common law. He studied the manorial relationship of the landlord and the tenant. In London, he saw the manors and how they affected the geographic make-up of the community. Such first-hand knowledge gave him a better perspective of how the manor system, and the manorial court system worked.

Kimberly Whittle, a second-year student who also participated in the program, found that visiting the historic English museums helped her to understand the common law. In one museum, she and other students had the opportunity to see the Magna Carta, the historic charter which is the closest England has ever come to drafting a written constitution.

Both Conway and Whittle found the extracurricular activities of touring and going to pubs exciting as well as relaxing. A few of the students went to the "Wig and Pen," an English country club exclusively for lawyers. They were admitted because of their status as American law students.

After the four-week program, a few students chose to tour Venice, Italy. They also stayed in a house owned by Wake Forest University.

By Karen E. Eady, a second-year student from Chesapeake, VA.

Professor Curry Hears Mandela Speak in Atlanta

He waited 27 years in South African prisons to freely present his message to the world. Her family—her mother, husband and son—rode five hours on a bus to see him and to hear him.

On June 27, 1990, Professor Luellen Curry and her family traveled to Atlanta, GA, to celebrate the release and visit of Nelson Mandela. Her family joined 156 other local residents in a bus caravan to Atlanta.

Four buses left from Emmanuel Baptist Church in Winston-Salem. They later met near the South Carolina border with 23 buses of people from other parts of North Carolina. In total, the 27 buses carried over 1,250 people. Within an hour, the bus caravan would head to Atlanta where Mandela would address a crowd of approximately 50,000.

The weather was perfect. Some of the riders dressed in brightly-colored, boldly-designed African garb. Anticipation, excitement, and a common sense of purpose filled the air. On the ride from Winston-Salem to South Carolina, a student from Winston-Salem State University wrote a song for Mandela: "Freedom, Freedom. Freedom is coming and its coming soon."

Later under the shade of a tree at a South Carolina visitor's center, a group of the riders practiced singing an anthem which was written in an African language. They, along with 50,000 others, would sing the anthem with Mandela in Atlanta.

Curry said that she had never felt so comfortable and united with a group of people.

Once in Atlanta, the caravan first stopped at the Martin Luther King, Jr. Center for Social Change. There, Curry caught her closest look at Mandela and his wife, Winnie. Mandela placed wreaths at the tomb of Dr. King. After this ceremony, the caravan headed to Georgia Tech's stadium where Mandela would speak.

Benjamin Mandela Eversley, Professor Curry's son.

As the sun began to set, Nelson Mandela appeared. His message was that even though he was free, nothing in South Africa had changed. Mandela encouraged the crowd to keep pressure on the South African government, and to not allow the American government to lift its sanctions. Mandela's theme was a political one, primarily aimed at raising money for the African National Congress. Curry noted that this did not undermine the spirituality of the event. Mandela's presence was an experience in itself. "The force of his personality is inspirational," Curry said.

Hearing Mandela speak was one of the most exciting events in Curry's life and that of her family. She has immense respect for Mandela's ability to remain dignified, courageous, and full of integrity throughout his ordeals with the South African government.

Curry does not want to deify or idolize Mandela. But to her, Mandela is the human embodiment of her highest ideals and beliefs. For his ability to "come out still fighting after everything," he deserves respect.

By Aimee Richardson, a second-year student from Fort Myers, FL.

"A Decade of Deliverance"

Clayton D. Morgan, a fourth-year J.D./M.B.A. student from Greensboro, NC, won the 1990 Frederick Douglass national writing competition sponsored by the National Black Law Students Association. He wrote the original essay shortly before the release of Mr. Nelson Mandela. A South African minister will deliver a copy of the original essay to Mr. Mandela. The essay below is an abridged version.

"Those who profess to favor freedom, and yet deprecate agitation, are men who want crops without plowing the ground; They want rain without thunder and lightning; They want the ocean without the awful roar of its waters. Power concedes nothing without a demand. It never did and it never will."
—Frederick Douglass, 19th-century abolitionist

Dear Nelson:

We saw you the first night they sentenced you to Robben Island, (the cruelest and harshest punishment on the African continent), and we cried . . . We were looking down on you when they denied you visitation from your family, and you had to be "introduced" to your own children (because they did not know who their father was), and we cried. . . . We were with you in spirit when they beat you, scorned you, and tried to get you to renounce your very heritage, and we cried. . . . And we were by your side, holding your hand, when they attempted to destroy your soul, and your allegiance to freedom, by threatening and torturing you both mentally and physically . . . and we cried.

Things are quite different up here. People are considered just that . . . people. We know no color, no race, and no prejudice. All we know is LOVE. There are no separate lines or separate facilities, where some can go and others cannot; rather there is only one giant house of GOD called Eternal Salvation.

You will be released tomorrow Nelson, and the world will be watching. Your task will be great, but not impossible. You must go out and spread the message of justice, harmony, and reconciliation.

Significant changes have occurred in America since I left this earth 22 years ago, and since you were imprisoned some 27 years ago. However, the answer in the 1960s, and the answer today continues to be through unity. Complacency and contentment have no place in the coming decade.

Photo by W. A. Bridges, Jr./Atlanta Journal & Constitution
Nelson Mandela

Nelson, when you are released, do us a favor. Go to America and tell the masses to "WAKE UP!" Tell them that just because they have "made it," does not mean that they have a license to forget about their brothers and sisters. There are thousands of men, women and children sleeping on the street Nelson, eating once or twice a week, and going without warm clothes in the winter. There are babies having babies, families headed by single parents-mostly women, and prisons full of our African-American males. We did not endure the struggle so that a select few could benefit; we fought so that ALL would profit. We fought so that our children would not have the same fears that we had. So tell them to give back to the community which helped them attain their current position.

Education is the key Nelson. Teach our children their very proud and prosperous history, and instill in them our rich, cultural and social values. Because Nelson, if we do not, society certainly will not. Above all Nelson, the preservation of a solid family structure, together with laying a firm educational foundation for our children to build upon, are paramount to the survival of our race. At stake is the viability of our race. The moment "we" becomes "I," spells the downfall of our communities and of our future.

But do not worry Nelson, America's African-American pool of lawyers has increased 600 percent since my death. Their numbers comprise only 4 percent of the total lawyers in the United States, but it nonetheless is a sign of progress. It is this group of people who will be most instrumental in breaking down the remaining barriers. We still have Justice Thurgood Marshall on the bench, and we hear from a most reliable source that he will be around until another brother or sister is ready to take his place.

Nelson, we leave you with a promise. Your task ahead will not be easy; the road will be long and the turns many. But do not be discouraged my brother, because we will be looking over you the entire time. The 1990s will be our decade of deliverance, Nelson. Act with caution, be wary of false promises, yet be receptive to genuine assistance. Above all, never, ever forget that in the beginning all persons were created equal . . . and so shall it be in the end.

Love, your brother,
Martin

PS. Frederick, Malcolm, Medgar, Stephen, Mary McLeod and Sojourner all send their love and support.

AMANDLA!

First Annual "Family Day"

Grill the panel. That's the professor's job. The professor begins slowly, easily. The professor first asks about the elements of battery. The panel of five law students mistakenly begin to relax. No problem. Then the professor wants real life applications: If the professor snatched a paper out of your hand, would that be a battery? If the professor slapped the back side of a horse while you were on top, would that be a battery? If he kissed a law student panelist during class, would that be a battery?

Photo by Allen

Stacy Chamberlain, a third-year student, and her parents Arnold and Jean attended "Family Day."

The questions grow more and more bizarre. Thus is the way of the socratic method. Professor David Logan demonstrated the esoteric and subtle qualities of the socratic method of teaching class to the more than three hundred family members who attended Wake Forest's first annual Family Day on September 8, 1990. One purpose of Family Day was to give the relatives of law students a realistic idea of a day in the life of a Wake Forest student. The other purpose was to enlighten and entertain family members as to their role in the lives of law students.

Mock classroom sessions were not the only law school activity in which parents and relatives were given insight. Dean Walsh gave an upbeat welcome and overview of the afternoon's events to students and parents. Expecting an intimate afternoon with only fifty people, Dean Walsh was thrilled to have such a large turnout. The large audience was evidence that Wake Forest is a family and a community oriented law school. He stressed that parents and family members have an important role in the lives of law students.

The two-hour afternoon session for family members took place in the courtroom. Professors David Logan and Charles Rose began the event by conducting two simulated classroom lectures. The two professors gave family members an idea of the different styles of teaching used at the law school. Professor Logan grilled a panel of students in fast-paced, energetic questions on assault and battery. Professor Rose approached his students in a slower, serious, and searching manner regarding the issuance of warrants and the exclusionary rule.

Since law students do not spend all of their time in class (a little known secret), Associate Dean H. Miles Foy, III moderated three students in an informal discussion of the social aspects of law school.

Joe Bell, a third-year student, began the panel discussion by giving the perspective of a married student. He commented on the challenges that law school presents in juggling his family life with his academic pressures. Stacy Chamberlain, another third-year student, informed the audience of the Student Bar Association (SBA) duties. SBA's major activities include fundraising for the law school and keeping law students' weekends filled with social activities. Ursula Henninger, a second-year student, gave parents the ups and downs of being a "One-L" student. She pointed out the rituals first-year students face: grades, interviewing, and memo writing.

In the last demonstration, Tim Conner and Denise Hartsfield, both Moot Court members, presented appellate arguments involving a fire insurance claim. Professors Luellen Curry, Debbie Parker, George Walker, I. Boyce (Butch) Covington, and David Shores were judges for this demonstration. They engaged the participants in a lively discussion of the legal issues involved in that case.

Both students and family members said that they found the day to be worthwhile. Parents felt they had gained a better understanding of what their children were involved in on a daily basis. Students felt satisfied that their parents and relatives could now better comprehend their needs as law students.

Family Day '90 was capped off by a barbecue on the law school patio and a winning Wake Forest football game against Appalachian State.

By Aimee Richardson, a second-year student from Fort Myers, FL.

ALUMNI NEWS

School of Law Receives Over $8 Million in Gifts

Anne and T. Eugene Worrell *Photo by Clark*

Sandra K. Gallant

Several prominent alumni have pledged large gifts to the School of Law. T. Eugene Worrell ('40) and his wife Anne, pledged $5 million. This is the largest gift ever pledged by a living law alumnus. In gratitude for the many contributions made by the Worrells, the new professional center will be named the Worrell Professional Center for Law and Management. This complex is expected to open during the fall of 1992. Cesar Pelli, a nationally renowned architect designed the 178,000-square-foot building. It will be one of the first academic building in the country to house both a law school and a graduate business school in one complex.

In 1976, the Worrells donated a house in London for Wake Forest students. They also established the Robert Goldberg Award in Trial Advocacy. This is an annual cash prize awarded in memory of a Wake Forest student killed in World War II. The Worrells are the founders of the Worrell newspapers group.

Sandra K. Gallant pledged $2.5 million to the Worrell Professional Center on behalf of the estate of her late husband, Wade M. Gallant, Jr. ('55). Gallant was a partner with Womble, Carlyle, Sandridge, and Rice in Winston-Salem. He died of cancer in December, 1988. In his honor, a library reading room on the second floor of the Center will be named the Wade M. Gallant Jr. Reading Room.

Also, the university received approximately $2.3 million from the estate of Julius Calvin Brown ('68). Brown was a Madison, WS attorney. $1.1 million of the gift will be used for scholarships for law students.

By Stefani R. Lacour, a second-year student from Englewood, CO.

Professor Billings Is President-Elect of NCBA

Rhoda B. Billings

Professor Rhoda B. Billings is president-elect of the North Carolina Bar Association (NCBA), the largest voluntary legal organization in the state. She is a former justice and later chief justice of the North Carolina Supreme Court, and a former district court judge.

Billings took the oath as president-elect during the general session of the NCBA's annual meeting. In June 1991, she becomes the 97th president. She will be the first law professor and the first woman to preside over the NCBA.

"Her election is a great tribute to her abilities and work for the Bar Association and the profession," said Dean Robert Walsh.

Billings said that she would have been reluctant to accept the nomination if she had not been chosen on professional merits alone. "My approach to the profession has always been that I'm a lawyer first," Billings said. The nominating committee selected Billings for her many years of volunteer work with the NCBA.

"While they [the Committee] were delighted to have a woman who was going to be president of the Bar Association, I was not chosen because of that," Billings said.

Billings said that the NCBA's history of service has been one of its strengths. The many projects that the NCBA will

undertake include a quality of life study focusing on the dissatisfaction of lawyers with the profession, and a report on the status of women in the legal field. The NCBA also wants to heighten public awareness of the attorney's role in society.

A native of Wilkesboro, NC, Billings received her undergraduate degree in English from Berea College in Berea, KY. She received her law degree from Wake Forest University in 1966, graduating first in her class.

"My approach to the profession has always been that I am a lawyer first."

Billings served as a district court judge in the 21st judicial district before joining Wake Forest University's law faculty in 1973. A former member of and consultant to the N.C. Criminal Code Commission, she chaired the N.C. Parole Commission in 1985. Additionally, she was a partner with her husband in the law firm of Billings and Burns.

She has chaired numerous NCBA committees. She also was a member of the NCBA Board of Governors from 1982 until 1985.

By Stefani R. Lacour, a second-year student from Englewood, CO.

Kellum Shares Trial Experience

Norman B. Kellum, Jr. ('65) spoke to law students and faculty in Room 209 of Carswell Hall on September 7, 1990. His main topics were the image of lawyers, and effective trial techniques. Kellum is a partner in the law firm Beaman, Kellum, Hollow & Jones which is located in New Bern, North Carolina.

He began by speaking about the image of lawyers. Kellum reminisced about the days of country lawyers who patiently listened to their clients. Such lawyers were respected in their communities.

Kellum said that lawyers must be concerned about the effect time-billing has on the image of lawyers. He urged the students to consider how time-billing has affected the image of the medical profession which often charges flat fees for each component of their services. Kellum said, "Back in the days when doctors made house calls, they were the most respected members of the community. They were involved in the community. When you see in eastern North Carolina, not New York, a $3 million malpractice verdict against a physician, then you know times have changed."

Photo by Allen

Norman B. Kellum, Jr.

Kellum spoke again about lawyers. "We lawyers are looking just as greedy as the next guy. We look like we want all the money but we don't want to be in church on Sunday. We don't want to be a member of a community club or civic activity. We don't want to pay any dues. We don't want to be any part of the town."

He urged students "to start developing from day one the character you intend to build over the course of a career. And you don't need to let up. You need to keep right on going. Keep on giving back to your community."

Later, Kellum spoke about trial techniques. He said lawyers should not speak in legal terms or big words to their clients or to the jury. Rather lawyers should speak as though the average person had a sixth-grade education. He said that a lawyer does not want his client to use legal terms on the stand because that looks as if the lawyer told the client what to say.

He urged the students to use demonstrations during the trial because the jury wants to be entertained. "Jurors would rather watch television than listen to the radio," Kellum said. He also spoke about the importance of cross-examination, jury selection, and objections.

Before ending, Kellum told the story of a great college football player who was wrongly denied a prized trophy. Yet, the athlete went on to make a success of his life without football. The motto he lived by was: "Bloom where you are planted."

In closing, Kellum told the students, "If you do not make the money, at least have your reputation."

By Patricia A. Everett, a third-year student from Ahoskie, NC.

18th Annual Partners' Banquet

The 18th Annual Partners' Banquet was held Friday, October 5, 1990, at the Bermuda Run Country Club. Alumni, faculty, staff, family, and friends of the law school gathered to recognize those who have contributed to the school. Nelson Casstevens ('65) presided over the program.

Casstevens recognized several Wake Forest attorneys who have practiced law for 50 years or more. Such alumni included, Joseph Branch ('38), former Chief Justice of the North Carolina Supreme Court; and, Asheville attorney John Council Joyner, Sr.('23). Casstevens also acknowledged several milestone class reunions: the Classes of '65, '70, '80, and '85.

Robert K. Walsh, dean of the Wake Forest law school, read the list of new partners and friends of the law school. He thanked all of the donors who, through their loyalty and generosity, have helped to make the law school a thriving and dynamic institution.

Walsh then turned to a highlight of the evening: the presentation of the Joseph Branch Excellence in Teaching Award. The room erupted into applause when he announced that Professor I. Boyce (Butch) Covington was the recipient of the 1990 award.

Covington, who was surprised and visibly moved, thanked his colleagues for the honor. He said that one of the most satisfying aspects of teaching was the chance to "work with young people and have an impact on their life." He further commented that to receive the award meant a lot to him and would forever be one of his "proudest achievements."

Walsh introduced the keynote speaker, Dr. David G. Brown, Provost of Wake Forest University. Although only in his first year as provost for the University, Brown said he was already very impressed with the "sense of responsibility for fellow human beings" prevalent within the alumni of the School of Law. He labeled this concern for the individual the "Wake Forest way," that attitude which sets Wake Forest attorneys apart from the crowd and makes the University proud.

Photo by Allen

John Council Joyner, Sr. (center) with his daughter Nancy Joyner, and James Taylor, Jr., associate dean, external affairs.

As an educator, Brown identified emerging realities that colleges and universities will have to face in the not so distant future. First, Brown pointed out that since the last of the baby-boomers have become adults and the American population is aging, there are less students today than five or ten years ago. As the applicant pool shrinks, colleges and universities will find themselves increasingly competing for students. This competition will force schools to become more responsive to the needs and desires of the students. Brown, however, had good news for Wake Forest. He foresees new growth in the liberal arts as the society becomes more "information-based." Brown further stated that he believes that a law degree will come to represent a logical continuation of a liberal arts degree. He said many students will attend law school with no intention of practicing law but merely to continue their intellectual training.

Next, Brown said schools will have to account for the "shrinking world." As computers and satellites increase worldwide communication, schools must promote more internationalization of studies. He noted that the days of global isolation are gone forever and students need to be aware of the world around them.

Brown spoke of the need for new and creative learning techniques and strategies. He said that schools need to improve learning methods in order for American students to keep pace with their international peers. Brown mentioned some research that revealed that students who study in groups tended to earn somewhat higher grades in school. He said that group studying and group projects should be encouraged at all levels of education.

Brown also applauded the law school's commitment to quality over quantity. He mentioned that this commitment is supported by the University and, by way of illustration, he noted that the law school's budget is based on revenue for 500 students. The University, however, buys 60 of the 500 seats so the class size is kept to 440.

Brown forecast a bright future for Wake Forest and the law school.

By William L. Funderburk, Jr., a third-year student from Greensboro, NC.

Moseley Argues Before the U.S. Court of Military Appeals

Jeanelle Moseley

On August 29, 1990, Jeanelle Moseley made both Wake Forest University and national history when she argued before the United States Court of Military Appeals in *United States v. Curtis*. The case involved a constitutional challenge to the military death penalty.

Moseley and three other Wake Forest law students filed an amicus brief for this case. Moseley, a 1990 graduate, gave the oral argument. Also, this was the first time that an appellate federal court has allowed a live television broadcast of its proceedings. C-Span, a cable network which specializes in covering governmental proceedings, broadcast the events.

This appellate court has allowed lawyers to file briefs and argue cases before it only upon invitation. Chief Judge Robinson Everett of the Court contacted Associate Dean James Taylor, Jr. and extended an invitation to Wake Forest law students to submit an amicus brief. Taylor has been chairman of the United States Court of Military Appeals Court Committee since 1987.

The only other school invited to submit a brief was Georgetown Law Center. Others submitting amicus briefs included the National Association for the Advancement of Colored People, the Army, the Navy, Department of Justice, and the Bar of the City of New York.

The broadcast included a live interview of Taylor who provided background information. At 10:00 a.m., each side had one hour to present its case. Later, those interested groups which had filed amicus briefs were allowed to make their oral presentations.

At the hearing, Moseley was allowed ten minutes to argue. She presented her arguments and also answered questions from the Bench. Professor Ronald F. Wright, Jr. calls Moseley a "perfectionist" and noted that she, "belonged in the room with those full-time professional advocates."

Three other Wake students from the Clinical Program volunteered to work on the brief. They were Michelle Davis, Gaylynn Gee, and Ann Shaw. They chose to write for the appellant Curtis. They worked under the supervision of Professor Wright.

Moseley argued that the death penalty scheme was invalid under a separation of powers claim.

In March 1990, they filed the brief with the appellate court. Under the Court rules, any party that files a brief may make a motion to argue. The Wake Forest team made a motion, and the Court granted it.

Since Moseley was a recent graduate, she could devote time to prepare for the oral arguments. Professors Wright, George K. Walker, and Dean Taylor assisted her.

United States v. Curtis is still being decided by the Court of Military Appeals. The facts of the case and the conviction of Lance Cpl. Ronnie Curtis are not at issue. Curtis, an African-American, confessed to murdering his commanding officer, and to mortally wounding and sexually assaulting the officer's wife.

The broadcast included a live interview of Taylor who provided background information.

Curtis was sentenced to death following a military trial. This case is the first time in 29 years that a military execution may take place. Curtis claimed that his commanding officer racially taunted him on a regular basis. Curtis appeals his death sentence on two grounds. First, a nine-member court martial panel sentenced him. All states with death penalties imposed by a jury require a twelve-member jury. Second, Curtis contends that then-President Ronald Reagan abused his executive powers in 1984 by specifying whom the military may sentence to death.

Moseley argued that the death penalty scheme was invalid under a separation of powers claim. President Reagan promulgated regulations which became the procedures for implementing the death penalty scheme. Other amici challenged the procedures as applied in this particular case since it was tinged with racial overtones. Only three of the nine-member jury were African-Americans.

By Rita Sampson, a second-year student from Norfolk, VA.

Chee Wins Pro Bono Service Award

Manlin M. Chee

The N.C. Bar Association (NCBA) awarded Manlin M. Chee ('78) the Pro Bono Service Award for 1990. Chee was chosen over 17 other candidates. The NCBA presented Chee with this prestigious award at its annual meeting at the Myrtle Beach Hilton on June 21, 1990. The NCBA established the award in 1984.

Certainly Chee has lived up to the meaning of the phrase "pro bono." Pro bono means to provide legal services to the less fortunate at a reduced charge or at no charge. Janet McAuley-Blue, an attorney with Central Carolina Legal Services (CCLS) in Greensboro said, "Manlin M. Chee has always been a zealous advocate for the underdog. Her understanding of cultural differences makes her especially well-suited to represent immigrants who are trying to adjust to a new culture and legal system."

Chee is from Singapore. She noted that law school was hard for her because everything about it, even common legal terms, was so new. Chee said, "I am grateful to everyone who gave me opportunities in life. I am grateful to the person at the Wake Forest law school who took a chance and admitted me. I wrote on my law school application that I wanted to make a difference." She stated that she thinks of Wake Forest often.

Chee began her legal career with CCLS in 1978. In 1982, Chee left CCLS to pursue a career as a private practitioner. Chee, however, continued her relationship with CCLS by providing volunteer work and by accepting reduced fee referrals.

In 1984, Chee started taking pro bono cases for CCLS and for the Greensboro Pro Bono Project. She agreed to accept school guardianship cases, domestic relations cases, and public benefits cases.

Chee has provided representation for Haitian refugees who needed legal services. In 1984, Chee received the American Immigration Lawyers Association Pro Bono Award for her representation of North Carolina Haitian refugees.

Chee once traveled to Fredericksburg, VA, at her own expense to represent Cubans who were boat-lifted from Cuba. In addition, Chee has represented aliens in federal court and has asked that her name be placed on an appointment list to accept appeals cases of aliens who have been denied legalization.

Chee is a board member of Courtwatch of North Carolina, Inc., Guilford Women's Residential/Day Center, and the Greensboro Chinese Association. She also is a volunteer for the Guilford Literacy Council.

By Debbie Thompson, a second-year student from Burlington, NC.

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By Martha E. Thomas, law librarian

LEGAL ARTICLE

The Kuwait Crisis and the Relevance of International Law

*by George K. Walker **

George K. Walker

Recently columnist George Will wrote that "a spright is a disembodied spirit, a ghost. Like international law."[1] Will's statement in the context of commenting on Senator Daniel Moynihan's *On the Law of Nations*[2] is not a new claim. The English legal philosopher, John Austin, asserted pretty much the same thing over a century ago,[3] and the "power theory" has had its influence in our time.[4]

Respectable authority — including, not surprisingly, those who teach and practice international law — would strongly oppose the Will/Austin view, declaring that international law is alive and well, and that it plays a strong role in the law of any country, including the United States.[5] The themes of this essay are that Will and Austin erred in declaring that there is no international law, and that increasingly the practice of law in the United States must take into account the potential for application of international law, sometimes "public law," *i.e.* the law of nations, and more often "private" or "transnational" law.[6] The application and relationship of these principles is illustrated by the Kuwait Crisis.

Professor McDougal would remind us, furthermore, that international law must be seen in the context of other value processes that contribute to achievement of a general goal of the betterment of humankind.[7] Reflection on the components of a commonplace human transaction — buying a house — underscores the truth of McDougal's view. The legal aspects of the transaction — the contract, the deed and mortgage, the title search — are but a part of the "deal" to the purchasers, who may well consider many nonlegal factors, *e.g.* coming up with the down payment; arranging financing; access to churches, schools, shopping; police and fire protection, *e.g.* safety of the neighborhood; health, in the sense of access if a family member is disabled or access to jogging trails, etc., or perhaps a concern over radon gas. The point is that the legal aspects play only a part, and sometimes only an insignificant part, in any transaction. To counsel, the legal aspects are paramount, if for no other reason than professional liability concerns, but no lawyer can afford to ignore the nonlegal aspects of the transaction. If there is no financing, there will be no house purchase, and a conditional clause in the contract (drafted by a lawyer) frequently protects purchasers in such an event. To buyers and sellers, the legal aspects are perhaps insignificant, until legal problems emerge.

The same is true on the international plane. Any international transaction — ranging from the current Kuwait Crisis to the most routine civil litigation with an international "flavor" — follows the same theme. While "It is probably the case that almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time,"[8] there are other forces and factors at work as in domestic transactions: economics and business relationships, religion, family ties, moral values, military force (*i.e.* international "police protection"), health, etc. The forces and factors are more complex and perhaps less fathomable to us in the United States with our general consensus on basic values and attitudes, but the forces and factors are there.[9] Law is but a piece of the puzzle. Although an inclusive analysis of international issues would demand examination of all relevant factors, this essay concentrates on the legal aspects of an international problem.

The legal problems in the international arena are more complex too. In U.S. international practice, there are two bodies of law that counsel must consider: U.S. law under the Constitution (state and federal), and international law. For although Justice Gray correctly stated the broad proposition that customary international law is part of our law, he hastened to add that such law applies in U.S. courts only where there is no treaty or no controlling executive or legislative act or judicial decision.[10] Another aspect of the transnational legal problem is that of the relationship of U.S. law to the national law of other countries. U.S. companies have been dealing with these kinds of issues, in the contracts they draft and negotiate with foreign businesses, and in litigation arising out of such deals, for years. What is occasionally missed, as Philip Jessup pointed out nearly four decades ago, is that "public law" and "private law" issues can be, and usually are, inextricably linked.[11] Parts I and II develop this theme in the context of the ongoing Kuwait Crisis; emphasis is necessarily on the public law aspects, for such has dominated the legal landscape, but intimations of private-law ordering are already in place. Part III catalogues other potential issues that may arise from the crisis in the context of civil litigation, and concluding Part IV summarizes the twin themes of the

potential role of international law for U.S. practitioners and the transnational nature of international law today.

I. The United Nations and the Kuwait Crisis

Acting immediately after Iraq's invasion of Kuwait and possibly Saudi Arabia on August 2-3, 1990,[12] the U.N. Security Council passed Resolution 660 which:

> 1. Condemn[ed] the Iraqi invasion of Kuwait,
>
> 2. Demand[ed] that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on August 1, 1990, [and]
>
> 3. Call[ed] upon Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences and supports all efforts in this regard, and especially those of the Arab League, . . .[13]

The Council then "decided," after Iraq failed to comply with its request, to require U.N. members to embargo goods to or from Iraq and occupied Kuwait and to freeze financial or other economic resources of Iraq and occupied Kuwait, in Resolution 661. (Foodstuffs for humanitarian purposes, and payments for humanitarian or medical purposes were excluded from the financial embargo by Resolution 661). The Security Council was designated as a committee of the whole to monitor and report on the situation, and the U.N. Secretary-General was asked to provide assistance and report to the Council on progress. The Council also decided that nothing in Resolution 661 prohibited assistance to the legitimate government of Kuwait and called upon all nations to act to protect assets of Kuwait and its agencies and not to recognize any regime set up by Iraq and affirmed "the inherent right of individual or collective self-defence, in response to the armed attack by Iraq against Kuwait, in accordance with Article 51 of the [U.N.] Charter."

The response of the United States was swift and typical of other nations. President Bush, by August 2 executive orders, blocked Kuwaiti amd Iraqi governmental property while prohibiting transactions with Iraq. The President declared that he acted pursuant to Constitutional and statutory authority, specifically in accordance with the International Emergency Economic Powers Act (IEEPA) and the National Emergencies Act (NEA), among other legislation.[14] These executive orders, proclaimed simultaneously with Resolutions 660 and 661, were revoked by additional executive orders on August 9 that cited Resolution 661, the U.N. Participation Act, IEEPA and NEA, as well as other federal legislation.[15] On that same day, the President sent a War Powers Resolution[16] notice to the Congress, stating he "[did] not believe involvement in hostilities is imminent; . . . this deployment [Operation Desert Shield] will facilitate a peaceful resolution of the crisis."[17] At this time domestic debate on use of Desert Shield forces in other than a self-defense role began; besides lawsuits attempting to regulate executive conduct,[18] Congressional debate has surfaced, and private groups have protested active U.S. involvement, as opposed to self-defense.[19]

After Saudi Arabia and Kuwait had requested assistance for their defense and agreements were reached by August 6, deployment of U.S. troops to Arabia began.[20] Naval vessels were already on station, but additional battle groups clustered around aircraft carriers and the battleship *Wisconsin* were ordered to the Red Sea, Persian Gulf, and Arabian Sea. Cooperating nations, such as the United States, issued Notices to Mariners (NOTMARs) of procedures to implement interception of vessels bound for Iraqi or Kuwaiti ports, and Iraq published its own warning. The U.S. NOTMAR cited Resolution 661, requests from Kuwait, and "the inherent right of collective self-defense" under article 51 of the Charter.[21] Call-up of reservists and the National Guard on a selective basis began.[22] Other nations followed suit, and by the beginning of December over 400,000 members of a multinational force and its equipment had been projected for duty in the Arabian peninsula. Syria and Turkey stationed troops along their borders with Iraq.

Iraq established a puppet regime in Kuwait after flight of the Kuwaiti government and most of the royal family to government in exile status in Saudi Arabia. A few days later, Iraq annexed Kuwait as Province 19, a part of Iraq, declaring that Kuwaitis were now Iraqi citizens. Security Council Resolution 662 decided that the annexation "has no validity, and is considered null and void." The Council called upon all nations, international organizations and specialized agencies not to recognize the annexation and not to act or deal in any way that might be interpreted as indirect recognition of the annexation. The Council demanded that Iraq rescind its actions purporting to annex Kuwait. (On November 28, Council Resolution 677 condemned Iraqi attempts to destroy Kuwaiti population records and mandated that the U.N. Secretary-General maintain an authenticated copy of the Kuwaiti population register that had been smuggled out.)

When Iraq declared that foreign nationals, citizens of U.N. members contributing to the Resolution 661 embargo and to the multinational force, were "guests" and would not be allowed to leave, the Council passed Resolution 664:

> Acting under Chapter VII of the United Nations Charter [, the Council]
>
> 1. Demand[ed] that Iraq permit and facilitate the immediate departure from Kuwait and Iraq of the nationals of third countries and grant immediate and continuing access of consular officials to such nationals;

2. Further demand[ed] that Iraq take no action to jeopardize the safety, security or health of such nationals; [and]

3. Reaffirmed its decision in resolution 662 (1990) that annexation of Kuwait by Iraq is null and void, and therefore demand[ed] that the government of Iraq rescind its orders for the closure of diplomatic and consular missions in Kuwait and the withdrawal of the immunity of their personnel, and refrain from any such actions in the future. . .

The result was refugee flights to the United States and other countries, as well as personal interventions by, *e.g.*, Austrian President and former U.N. Secretary-General Kurt Waldheim to secure release of nationals. Many U.S.-bound flights ended at the Raleigh-Durham airport; news reports showed refugee children being admitted to North Carolina public schools after completing entry procedures. Other refugees made it overland to Jordan or Saudi Arabia, and others left aboard chartered vessels for the United Arab Emirates, down the Persian Gulf, and eventually home. The International Committee of the Red Cross (ICRC), a nonprofit Swiss corporation that promotes humanitarian law as stated in the Geneva Conventions of 1949 and the 1977 Protocols to the Conventions,[23] was active. The ICRC, cooperating with the Jordanian Red Crescent (the national society whose U.S. equivalent is the American Red Cross, recently active in Hurricane Hugo and other disasters such as the tornado that struck Winston-Salem), established emergency centers in Jordan for the refugees. Other national societies, *e.g.* that of Germany, sent teams, and other nations and relief societies sent help.[24] The ICRC's President also visited Baghdad, with these objectives:

to provide protection and assistance, in both Iraq and Kuwait, to the various categories of civilians affected by the events;
to improve co-ordination and set up the ICRC's operation in Jordan in behalf of foreigners transiting through the country;

to examine possibilities of assisting foreign nationals crossing other borders (particularly into Iran);

to review the current situation with regard to the repatriation of Iraqi and Iranian prisoners of war.

Aside from progress in repatriation of prisoners of war from the 1980-88 Iran-Iraq war, all ICRC proposals were turned down by Iraq.[25]

Iraq also turned down U.N.-sponsored and other overtures to depart Kuwait. The Security Council then decided to impose sanctions under the Charter in Resolution 665. The Council

1. Call[ed] upon those Member States cooperating with the government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 . . ..

2. Invite[d] member states accordingly to cooperate as may be necessary to ensure compliance with the provisions of resolution 661 . . . with maximum use of political and diplomatic measures, in accordance with paragraph one above;

3. Request[ed] all States to provide in accordance with the Charter such assistance as may be required by the States referred to in paragraph one of this resolution; [and]

4. Further request[ed] the states concerned to coordinate their actions in pursuit of the above paragraphs of this resolution using as appropriate mechanisms of the Military Staff Committee and after consultation with the Secretary-General to submit reports to the Security Council and its Committee established under resolution 661 (1990) to facilitate the monitoring of the implementation of this resolution . . ..

Subsequent resolutions imposed an air embargo and demanded observance of the Fourth Geneva Convention, which states principles of humane treatment for civilian persons in occupied territories during wartime,[26] by Iraq. (The latter had threatened cutoffs of food, etc., if shortages developed.) Iraq's violation of foreign nations' embassies in Kuwait and abduction of embassy personnel, provoked an "Outraged" Security Council to "Strongly condemn" this behavior in Resolution 667 and a demand that Iraq comply with Council Resolutions 660, 662 and 664, the multilateral Vienna conventions on diplomatic and consular relations,[27] and international law. This aspect of the crisis disappeared when Iraq authorized departure of all hostages in early December, and the U.S. and other nations closed embassy doors in Kuwait; the diplomats left for home too.

On November 29, Council Resolution 678 authorized U.N. Members cooperating with Kuwait "to use all necessary means to uphold and implement [Resolution 660] and all subsequent relevant resolutions and to restore international peace and security in the area," unless Iraq used its "one final opportunity, as a pause of goodwill," to comply with the Council's resolutions, on or before January 15, 1991. It was the first time since the Korean War in 1950 that the Council had authorized the use of force to carry out its decisions, although the Council's action in condemning the

illegal state of Rhodesia had resulted in the Council's authorizing the United Kingdom to prevent "by the use of force if necessary the arrival at Beira of vessels reasonably believed to be carrying oil destined for Rhodesia."[28] (Beira was Rhodesia's link to the sea.)

Thus matters stood from a general legal, military and economic perspective at the beginning of December. Space does not permit discussing the diplomatic missions, maneuvers or posturing; assassinations and shootings peripheral to the central Arabian arena; the "television war" of the national leaderships; the misery of displaced Kuwaitis or the nationals of many countries trapped in Iraq and Kuwait or forced to await repatriation in Jordan;[29] the anxiety of those at home for loved ones caught inside Iraq or Kuwait, or for service personnel ordered to the arena; the apparent destruction and looting of much of Kuwait; the growing U.S.-USSR cooperation; controversies concerning Japan's and Germany's sending forces to the arena; and the tightening worldwide economic grip on Iraq. Within the United States, debate over whether U.S. forces should be employed in the absence of U.N. authorization[30] may be evolving into arguments over use of force at all. Such debates within democracies are not a new phenomenon; Thucydides reported such in the course of the long Peloponesian War,[31] historians and senior citizens can recall the 1939-41 "America First" and similar campaigns before World War II, and memories of the Vietnam War are all too painful to many.[32] These and other factors have played and will play roles as the drama of the Kuwait Crisis unfolds.

II. The United Nations, the United States and the Rule of Law

The President's August 22 news conference opening statement referred to "cherish[ing] freedom and the rule of law,"[33] and that has been the theme of many world leaders in the Kuwait Crisis. The law the nations have been employing through the United Nations, and individually, has been nearly a textbook application of the U.N. Charter's concept of regulating the use of force.

The Charter, a treaty to which 160 member nations are now party, including the United States,[34] was drafted under strong U.S. leadership.[35] The Security Council, author of the Kuwait resolutions discussed in Part I, has 15 members, 10 apportioned on a worldwide basis and five permanent members — China, France, the USSR, the United Kingdom and the United States — who have veto power over any Council resolution. The veto, often exercised by the USSR and occasionally by other nations, including the United States, has resulted in inaction or resolutions diluted in strength, e.g. the recent resolution condemning the Israeli shooting of Palestinians. (At other times, a U.S. veto would have been a virtual certainty.)

Under article 24(1), U.N. members "confer on the . . . Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the . . . Council acts on their behalf." Under articles 25 and 48, all U.N. members agree to accept and carry out "decisions" of the Council in accordance with the Charter. These provisions are among the linchpins of the United Nations' lawmaking authority and have been used repeatedy in Council Resolutions on the crisis. Indeed, under article 103, the Charter and law under the Charter, such as article 25 or 48 decisions, trump any obligations under any other international agreement.[36] Article 12(1) of the Charter also provides that when the Council is exercising functions assigned to it by the Charter in respect of any dispute or situation, the General Assembly shall not make any recommendation with respect to such unless the Council so requests. Thus when Iraq tried to bring the crisis before the Assembly on November 9, that body's steering committee properly refused to place the issue on the agenda. Every Council resolution since August 2 has squarely declared that the Council remains seized of the crisis issue.[37] Recently, however, the Assembly has been considering, through its committees, a draft resolution condemning Iraqi behavior that may fall outside Security Council-preempted issues.

The Charter contemplates a two-stage process for disputes whose continuance is likely to endanger the maintenance of international peace and security.

Under Chapter VI (articles 33-38), the Council's function is recommendatory. Article 33 requires disputing nations to seek a solution by peaceful means such as negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, or through regional agencies — virtually a recitation of current trends in alternative dispute resolution in the United States. This step, unless one would include Iraq's deceptive conversations with the Arab states just before the invasion,[38] was bypassed by events in the Kuwait crisis. If the parties' efforts fail, the Council can recommend procedures, including possible World Court resolution, for resolving the problem under articles 36-38. This procedure was also bypassed in the fastmoving Kuwait crisis.

From August through November, the Council proceeded to its Chapter VII authority under the Charter with respect to the invasion of Kuwait. Resolution 660 invoked articles 39 and 40 of the Charter; the Council determined that an act of aggression had occurred; it made no lawmaking decisions but chose to "condemn," "demand," and "call upon Iraq and Kuwait to begin immediately intensive negotiations." A few days later, however, the Council decided that all nations must impose an embargo. Aside from demands that Iraq comply with Council resolutions or other norms of international law and occasional "invitations" for cooperation from U.N. members, the remaining resolutions are

replete with decisions that are law-making in content.

The United States has complied with Resolution 661, which calls for an embargo as permitted in article 41, by invoking — through August 9 Executive Orders — the U.N. Participation Act, which directs compliance with such Security Council decisions. If the Council decides on military force through its Charter articles 46-47 powers, then the United States would be obliged to place U.S. forces at the disposal of the Security Council, guided by the Military Staff Committee. The Committee — as distinguished from the Council's committee of the whole currently overseeing operations — consists of the chiefs of staff of the five "veto powers." If this crisis escalates to this stage, the result would be that General Colin Powell, the U.S. Chairman of the Joint Chiefs of Staff, or his representative, would be cooperating with his counterpart from Britain, China, France and the USSR, an event hardly imaginable two years ago. (Through the years, a service U.S. military officer has had the duty of representing the United States at desultory Committee meetings.)

Article 43 of the Charter declares that U.N. members "undertake to make available to the . . . Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, . . . necessary for the purpose of maintaining international peace and security." No such agreements exist, and for U.S. troops to be committed under these provisions of Chapter VII, such agreements would be a prerequisite. The U.N. Participation Act requires that such agreements receive approval of the Congress. Congressional approval is not required for actions such as the current embargo under article 42, nor is the President required to gain Congressional approval for furnishing facilities, loaned supplies, or up to 1000 noncombatant guards or observers. Congress can approve the troop commitment by act or joint resolution.[39]

Apparently this model will not be employed. In action analogous to the 1965 Rhodesian situation,[40] the Security Council, incorporating by reference its prior resolutions, approved Resolution 678, authorizing use of force if Iraq did not pull out of Kuwait by January 15, 1991. All nations were requested to support such action. (Whether Iraq's release of hostages, and talks between the President and Iraqi Foreign Minister Tariq Aziz, and between President Saddam Hussein and U.S. Secretary of State Baker, projected for December and early January, will prompt further and different Council action, cannot be determined at this writing.)

A. Collective and Individual Self-Defense

To the extent that U.S. and other nations' forces have been committed to relieve Kuwait from Iraqi aggression, they are subject to the commands of the Security Council. Since Resolution 661 has confirmed the right of self-defense, if Iraq attacks Saudi Arabia, or attacks U.S. or other nations' warships or aircraft on patrol on or over the high seas, *e.g.* in the Persian Gulf, the United States or other nations may take self-defense measures, individually or collectively. Self-defense may be invoked if the U.S.-Kuwait agreement provides for such, as it probably does. (The agreements have not been published.) Thus the United States and Kuwait could cite self-defense to attack Iraq to drive Iraq from Kuwait. Charter article 51 recites:

> Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Thus if a situation like the invasion of Kuwait is on the Council agenda, the Council is in control of the situation, and Council resolutions must authorize a move into Kuwait or Iraq. There is nothing in Resolution 678 barring such action; this Council resolution, which authorized use of force in late November, merely incorporated the self-defense provisions of Resolution 661. If Iraq were to attack or threaten to attack across the Kuwaiti border, this would not be within the Council's jurisdiction, as least not until the Council has decided on a course of action. This was the situation in Korea before the Council passed Resolutions 82-84.

An established self-defense system confronts Iraq to the north. Although primarily designed to provide collective self-defense against the USSR, the NATO Agreement's self-defense pledges to come to the aid of any NATO member attacked in its territory would apply equally to an Iraqi attack on Turkey.[41]

Besides the traditional and better-known "reactive" form of self-defense, the multinational force might face events calling for anticipatory self-defense, individually or as a group. The doctrine has its origins in the *Caroline* case of 1837, in which British forces attacked U.S. citizens aboard *Caroline* in the Niagara River. (The U.S. citizens were helping a rebellion in Canada.) Britain asserted *Caroline's* destruction was an act of self-defense. By 1842 the United States and Britain had agreed that such a right, involving destruction of the source of an opponent's armed force before the shell or bullet is on the way, was proper under international law. U.S. Secretary of State Daniel Webster's confirming letter to the British ambassador limited

the doctrine: "Undoubtedly it is just, that, while it is admitted that exceptions growing out of the great law of self-defence do exist, those exceptions should be confined to cases in which the 'necessity of that self-defence is instant, overwhelming, and leaving no choice of means, and no moment for deliberation.'" The response must also be proportional.[42] Since then, arguments have continued concerning availability of the doctrine and its scope in an age of radar-directed weapons, long-range supersonic missiles, and weapons of indiscriminate mass destruction such as gas or biological warfare devices possessed by Iraq. Most commentators believe that anticipatory self-defense is still legally available, at least in the context of individual nations, and perhaps in the context of collective self-defense as well.[43] The 1986 *Nicaragua Case* did, to be sure, declare that collective in-country operations in Nicaragua were an illegal response; the World Court declared that nations do not have a right of collective armed response to acts that do not constitute an armed attack.[44] *Nicaragua* does not apply to this situation, because armed attack has occurred; the Security Council has approved self-defense through Resolution 661; and in any event cases such as *Nicaragua* cannot operate in the sense of common-law precedent.[45]

B. Other Aspects of U.N. Action with Respect to the Kuwait Crisis

Although the crisis appears pretty far down the road in terms of Security Council involvement, it is possible that an aggrieved nation could file suit in the International Court of Justice (the "World Court" or "ICJ"), if the nations involved have submitted unilaterally to ICJ jurisdiction or if a treaty or special agreement among the states so provides.[46] Although Charter article 24(1) declares that the Security Council has "primary responsibility" for maintaining international peace and security, *Nicaragua* held that parties could file a case contemporaneous with Council action in a crisis.[47] *Nicaragua* involved that nation's claims that the United States had illegally mined Nicaraguan harbors in circumstances close to an armed conflict scenario. While *Nicaragua* went against the United States, the latter won the *Iran Hostages Case,*[48] which involved issues analogous to Saddam's "guests" program for foreign nationals and diplomats. Both cases illustrate jurisdictional options for ICJ access. Under Charter articles 33(2) and 36, the Security Council can recommend World Court resolution of issues. Moreover, under article 96(1), the Council or the Assembly can request an advisory opinion "on any legal issue."

U.N. members have pledged, under article 94(1), to comply with ICJ judgments in cases in which they are parties. If there is no compliance with an ICJ judgment, the winner may appear before the Council, which may "make recommendations or decide upon measures to be taken to give effect to the judgment," under article 94(2); i.e. the Council may make a binding decision in regard to this avenue of dispute resolution, with the possibility of sanctions or other actions. If submission to the ICJ as part of negotiated settlement, including Iraqi withdrawal from Kuwait, results, the Council would have a final "say" in case the loser reneges. The decision, like all other cases before the World Court, would have no precedential value as in the common-law tradition, but would be available at least as a secondary source for future crises, and possibly as a declaration of customary law and general principles on the subject.[49]

So the analysis ends with respect to the United Nations' action with respect to the Kuwait Crisis as of early December, and as to projections of future claims on the public international law plane. The private international law ramifications of this crisis have only just begun. The U.S. executive orders invoked the IEEPA and NEA to block Iraqi and Kuwaiti transactions.[50] As a result of that action, I received a notice from my bank, stating that international banking services would be subject to possible delays and defaults due to circumstances beyond the bank's control, that customers transacting business through the bank with respect to 18 listed Middle Eastern countries would do so at their own risk, and that the bank assumed no responsibility for losses, etc., with respect to such transactions. The U.S. NOTMAR,[51] declaring the risks of interception of vessels in the area undoubtedly will give rise to restraint of princes and similar issues under the Carriage of Goods by Sea Act.[52] Criminal practice, both in and out of the military, will feel the impact of the Uniform Code of Military Justice, which declares jurisdiction over U.S. military personnel wherever they go, arising out of criminal activity by Desert Shield personnel.[53]

III. Private International Law Aspects

The foregoing only begins to catalog the private transaction aspects of events influenced by public international law. Although quick action by the President through executive orders forestalled private litigation involving seizure of Iraqi or Kuwaiti assets that had erupted simultaneously with the Iran hostage crisis, undoubtedly there will be decades of claims litigated in U.S. courts or perhaps through an international claims tribunal such as that established pursuant to international agreement when the hostages came home.[54] (One of the largest claims coming out of the Iran crisis involved litigation in Winston-Salem, N.C. and New York before being resolved in The Hague, The Netherlands.)[55]

If remitted to private litigation, these cases will feature all the problems of domestic litigation, often with an international twist, and sometimes with special claims, defenses or techniques, *e.g.* subject-matter jurisdiction over alien defendants;[56] special venue provisions;[57] personal and in rem jurisdiction;[58] service

of process;[59] sovereign immunity,[60] act of state[61] and sovereign compulsion[62] defenses; discovery issues;[63] evidence problems;[64] judgment enforcement.[65] Besides these mainstream litigation issues, there will be important questions on choice of law,[66] and international contracts that have an arbitration clause will raise their own problems.[67]

IV. Conclusions and Projections for the Future

This very cursory examination of some potential issues that may arise in connection with resolution of civil disputes that are sure to trickle from the Kuwait Crises, however it is resolved on the public law plane, demonstrates that many aspects of American life — from general civil litigation through such diverse fields as domestic relations,[68] criminal law,[69] maritime law,[70] taxation,[71] or the international sale of goods[72] — are shot through with the potential for international law issues. As one casebook aptly puts it, "International law is not a 'course'; it is a curriculum."[73] The same might be said for the subject's impact on practice. As with the analysis of potential private international law issues sketched in Part III, the list here only scratches the surface. And, as occasional citations illustrate,[74] these legal problems have been surfacing in states like North Carolina, which heretofore would not have been considered major players in international transactions. The truth is that all of America has been feeling, and will continue to feel, the impact of an increasingly internationalized society, even as the impact of U.S. interests has been felt abroad for sometime. To understand the legal aspects of this phenomenon, usually encountered in the transnational context by practitioners, a knowledge of the public law is necessary, much as domestic practice cannot be complete without an appreciation of the federal and state constitutions. By the same token, public internatinal law is of little use without its application in transnational legal contexts, just as the sparse words of constitutions do not tell the whole story of the law; implementing statutes, regulations and cases complete the picture.

As the *Dean's Column* in this issue demonstrates, the law school has had a commitment to international law in its curriculum for some time. A measured growth in that field and in comparative law, commensurate with other curriculum needs, is projected. Wake Forest will not become a school solely for international lawyers, any more than it has been training solely for litigation, even with the current emphasis on litigation in the curriculum. Rather, the developing curriculum will continue that pledge, found in the law school *Bulletin* for many years, to "provide comprehensive legal education and [to] prepare students to practice in any jurisdiction where the Anglo-American system of law prevails."

V. Notes

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[1]Will, *The Perils of "Legality,"* **Newsweek** 66 (Sept. 10, 1990).

[2]**D. Moynihan, On the Law of Nations** (1990).

[3]**J. Austin, The Province of Jurisprudence Determined** 12, 127, 141-42, 200-01 (1965 ed.).

[4]*Cf.* **H. Morgenthau, Politics Among Nations** 282 (4th ed. 1967); Panel, *Cuban Quarantine: Implications for the Future,* 1963 **Proc. Am. Soc'y Int'l L.** 1, 13, 14 (Remarks of former Secretary of State Dean Acheson). *See also* **L. Henkin, How Nations Behave** 331 (2d ed. 1979).

[5]*E.g.* **L. Henkin,** *supra note* 4, at 25-26, 89-90, 92-95, 97-98, 320-21; **O. Lissitzyn, The International Court of Justice** 5-6 (1951); 1 **Restatement (Third), Foreign Relations Law of the United States,** 117-18 (1987); **M. Janis, An Introduction to International Law** 1-8 (1988); Fitzmaurice, *The Foundations of the Authority of International Law and the Problem of Enforcement,* 19 **Mod. L. Rev.** 1, 8-9 (1956). Besides the treaty-making power, the President's power to recognize governments by receiving ambassadors, the power to regulate foreign commerce, the power to regulate agreements between the 50 States and foreign nations, the Congressional war power, and the power to define and punish piracy and crimes upon the high seas, the U.S. Constitution also allows Congress to define and punish offenses "against the law of nations." *See* **U.S. Const.,** art. I, § 8, cl. 3, 10-11; § 10, cl. 1, 3; art. II, § 2, cl. 2; § 3. Pretty clearly the Framers felt international law existed in 1787.

[6]**P. Jessup, Transnational Law** 2 (1956).

[7]For analysis of this approach, *see generally* **R. Falk, The Status of Law in International Society** 7-40, 642-59 (1970); Dillard, *The Policy-Oriented Approach to Law,* 40 **Va. Q. Rev.** 626 (1964); Higgins, *Integrations of Authority and Control: Trends in the Literature of International Law and International Relations,* in **Toward World Order and Human Dignity** 79 (W. Reisman & B. Weston eds. 1976); Higgins, *Policy Considerations and the International Judicial Process,* 17 **Int'l & Comp. L.Q.** 58 (1968); Moore, *Prolegomenon to the Jurisprudence of Myres McDougal and Harold Lasswell,* 54 **Va. L. Rev.** 622 (1968); Morrison, *Myres S. McDougal and Twentieth-Century Jurisprudence: A Comparative Essay,* in **Toward World Order and Human Dignity,** *supra* at 3; Suzuki, *The New Haven School of International Law:An Invitation to a Policy-Oriented Jurisprudence,* 1 **Yale Stud. in World Pub. Ord.** 1 (1974); Tipson, *The Lasswell-McDougal Enterprise: Toward a World Public Order of Human Dignity,* 14 **Va. J. Int'l L. 535 (1979);** Walker, Sea Power and the Law of the Sea: *The Need for a Contextual Approach,* 83 **Mil. L. Rev.** 131 (1979), 7 **Ocean Devel. & Int'l L.J.** 299 (1979). **M. McDougal, H. Lasswell & L. Chen, Human Rights and World Public Order** (1980) is the latest in a series that uses this complex analysis.

[8]**L. Henkin,** *supra* note 4, at 47 (italics omitted).

[9]*See, e.g.,* Ajami, *The Summer of Arab Discontent,* 69 **Foreign Aff.** 1 (1990), which surveys the troubled waters of Arab politics, with its generous admixture of Islamic beliefs. *See also* Reed, *Jordan and the Gulf Crisis, id.* 21 (1990) and Morse, *The Coming Oil Revolution, id.* 36 (1990). The multinational force reaction to some of these forces and factors can be observed in U.S. Commander-in-Chief Central Command General Order No. 1 (Aug. 30, 1990), which, inter alia, orders U.S. troops to refrain from entering mosques on other sites of Islamic religious significance by non-Moslems "unless directed to do so by military authorities or [as] required by military necessity," forbids "introduction, possession, transfer, sale, creation or display" of any medium that displays designated parts of the human body, including advertisements in magazines; prohibits "introduction, possession, use, sale, transfer, manufacture or consumption of any alcoholic beverage," among other regulations. As is well known by now, such conduct is prohibited by the Islamic faith, whose tenets have been incorporated into the laws of many Arab states. For an example of this in relatively noncontroversial fields of law, *see generally* Panel, *Islamic Law,* **1982 Proc. Am. Soc'y Int'l L.** 55 (1984).

[10]The Paquete Habana, 175 U.S. 677, 700 (1900). Thus the United States, like many nations, subscribes to "dualist" notions of the relationship of international law to national law. Other countries have incorporated international law into their national legal systems and accord it priority over municipal (*i.e.* national) law. *See* **I. Brownlie, Principles of Public International Law** 32-34, 50-52 (4th ed. 1990); Henkin, *International Law as Law in the United States,* 82 **Mich. L. Rev.** 1555 (1984); Sasse, *The Common Market: Between International and Municipal Law,* 75 **Yale L.J.** 695,

712-13 (1966). Unlike **U.S. Const.**, art. VI, the international legal order has no formal supremacy clause except **U.N. Charter**, art. 103, which declares that Charter norms trump any international agreements at variance with the Charter. Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), 1986 I.C.J. 14, 110-11 found that customary norms paralleled Charter norms (the latter not applicable in the case), which may be a signal that all of the Charter is now customary law that would trump other custom. *Cf.* **I.C.J. Statute**, art. 38(1), 59. Soviet authors before perestroika have taken a similar view, as have scholars from western and nonaligned nations, on a jus cogens theory. *See, e.g.*, **I. Sinclair, The Vienna Convention on the Law of Treaties** 222-24 (2d ed. 1984); Alexidze, *Legal Nature of Jus Cogens in Contemporary International Law*, 172 **Recuiel des Cours** 227 (1981); Haimbaugh, *Jus Cogens: Root & Branch (An Inventory*, 3 **Touro L. Rev.** 203 (1987); Jimenez de Arechaga, *International Law in the Past Third of a Century*, 159 **Recuiel des Cours** 9, 62-68 (1978); Tunkin, **International Law in the International System**, 147 *id.* 1, 85-94 (1975). There is also a debate as to whether the Constitution's supremacy clause requires that a treaty would trump development of customary international law in U.S. courts. *Compare, e.g.*, Goldklang, *Back on Board the Paquete Habana: Resolving the Conflict between Statutes and Customary International Law*, 25 **Va. J. Int'l L.** 143 (1984) *with* Henkin, *supra*. *See also* **Restatement (Third),** *supra* note 5, § 135, comment d and reporters' note 4.

[11] **P. Jessup,** *supra* note 6, at 1-34.

[12] Ajami, *supra* note 9, at 14, says there were three incursions into Saudi territory on August 3, 1990.

[13] S.C. Res. 660, U.N. Doc. S/RES/660 (1990), *reprinted in 29* **Int'l Legal Mat'ls** 1325 (1990). Other early Council resolutions on the crisis — 661-62, 664-67, and 669-70, are reprinted in 29 id. 1325-36 (1990). Resolutions 674, imposing an air embargo; 677, requiring the U.N. Secretary-General to maintain a copy of the Kuwaiti population register; and 678, authorizing use of force to remove Iraq from Kuwait if Iraq did not depart from Kuwait by Jan. 15, 1991; are published in 1 **Dep't of State Dispatch** 239-40, 298 (1990).

[14] Exec. Orders No. 12,722, 12,723, 55 Fed. Reg. 31803-05 (1990), citing, inter alia, National Emergencies Act (hereinafter NEA), 50 **U.S.C.** §§ 1601-51 (1988) and International Emergency Economic Powers Act (hereinafter IEEPA), *id.* §§ 1701-06 (1988).

[15] Exec. Orders No. 12,724, 12,725, 55 Fed. Reg. 33089-92 (1990), citing, inter alia, Resolution 661, the U.N. Participation Act, 22 U.S.C. § 287c (1988), NEA, IEEPA and other federal legislation plus Exec. Orders 12,722, 12,723, *supra* note 14.

[16] 50 **U.S.C.** §§ 1541-48 (1988).

[17] Letter of President George Bush to the Speaker of the House of Representatives, Aug. 9, 1990, 26 **Weekly Compil. of Presid. Docts** 1225 (1990).

[18] *E.g.* Ange v. Bush, No. 90-2792 (D.D.C. Dec. 13, 1990) (LEXIS, Genfed library, Dist file), which dismissed a called-up Guardsman's suit on political question and ripeness grounds; Dellums v. Bush, No. 90-2866 (D.D.C. Dec. 13, 1990) (LEXIS, Genfed library, Dist file), which stated the overlapping powers of Congress with the Executive in the war powers arena and held the Congressmen who had sued had standing, but declined to decide the case, on ripeness grounds. Appeals of these and similar cases are virtually certain.

[19] About 430 North Carolina lawyers sent a petition to the President and the State's Congressional delegation, praising the President for gathering world support to expel Iraq from Kuwait but saying a U.S. attack on Iraq would be unwise. Healy, *Give Sanctions Time to Work, Neal Says on TV*, Winston-Salem J., Nov. 29, 1990, at 8, referring to Lawyers' Persian Gulf Statement, Oct. 23, 1990 (copy in author's file). *Compare, e.g.*, Sanford, *No, U.N. Pressure Will Work Best*, N.Y. Times, Aug. 24, 1990, § A, at 29, col. 5, *with* D'Amato, *Yes, Hussein Must Be Ousted, id.*, col. 2, and Sofaer, *Asking the U.N. Is Asking for Trouble*, Wall St. J., Nov. 5, 1990, at A14, col. 4. As *Ange, supra* note 18, notes, each House of Congress passed resolutions regarding the President's actions in early October. The differences were never reconciled before adjournment.

[20] U.S. Commander-in-Chief Central Command, *supra* note 9, invoked the Uniform Code of Military Justice, 10 **U.S.C.** §§ 801-940 (1988) to prohibit certain activities (*e.g.* possession of pinups) for U.S. personnel in Saudi Arabia.

[21] *Special Warning No. 80,* in **Defense Mapping Agency Hydrographic/Topographic Center, Notice to Mariners** 111-1.15 (No. 36, 1990); *Iraq Notice to Mariners No. 3/90.* (Copy in author's file).

[22] Exec. Order 12,727, 55 Fed. Reg. 35027 (1990).

[23] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 **U.S.T.** 3114, T.I.A.S. No. 3362, 75 **U.N.T.S.** 31; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, *id.* 3217, T.I.A.S. No. 3363, 75 **U.N.T.S.** 85; Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, *id.* 3316, T.I.A.S. No. 3364, 75 U.N.T.S. 135; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, *id.* 3516, T.I.A.S. No. 3365, 75 **U.N.T.S.** 287; Protocol I Additional to the Geneva Conventions Relating to the Protection of Victims of International Armed Conflicts, Dec. 12, 1977, 16 **Int'l Legal Mat'ls** 1391 (1977); Protocol II Additional to the Geneva Conventions Relative to the Protection of Victims of Non-International Armed Conflicts, Dec. 12, 1977, *id.* 1442 (1977). Protocols I and II are not in force for the United States, although Protocol II has been recommended for Senate advice and consent to ratification. Message of the President Transmitting Protocol II Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, Concluded at Geneva on June 10, 1977, Treaty Doc. 100-2, 100th Cong., 1st Sess. iii-iv (1986), *reprinted in* 26 **Int'l Legal Mat'ls** 561, 562 (1987).

[24] *Jordan: Joint Operation,* **ICRC Bull.** 2 (No. 177, 1990).

[25] *Gulf Crisis: ICRC Proposals Turned Down, id.* 2, 4; *see also Iran/Iraq: More than 70,000 POWs Repatriated, id.* 1, and *Middle East: Major Operational Challenge for ICRC* and *Gulf Crisis: ICRC Response, id.* 1 (No. 176, 1990).

[26] Geneva Convention Relative to the Protection of Civilian Persons in Time of War, supra note 23.

[27] Vienna Convention on Diplomatic Relations, Apr. 18, 1961, 23 **U.S.T.** 3227, T.I.A.S. No. 7502, 500 U.N.T.S. 95; Vienna Convention on Consular Relations, Mar. 19, 1967, 21 *id.* 77, T.I.A.S. No. 6820, 596 **U.N.T.S.** 261.

[28] See S.C. Res. 216, 217, 221, U.N.Docs. S/RES/216, 217, 221 (1965), *reprinted in* 5 **Int'l Legal Mat'ls** 167-68, 534 (1966). For the result, *see* **D. O'Connell, The Influence of Law on Sea Power** 137-38, 174-75 (1975).

[29] By November Jordanian refugee camps were empty; the Asians stranded there had returned home, but the "facilities . . . are nevertheless being maintained in readiness for any new arrivals." *Jordan: Transit Centre Now Empty,* **Int'l Comm. of the Red Cross Bull.** 4 (No. 178, 1990).

[30] *Compare, e.g.*, Sanford *with* D'Amato, *supra* note 19.

[31] *Compare, e.g.*, the addresses of Pericles with that of Alcibiades, and the debate over Mytilene. **Thucydides, History of the Peloponnesian War** 143-51, 158-63, 212-23 419-22 (Penguin ed. 1972). Democracies can best avoid disruption of the national social and political fabric by a quick, effective conflict that minimally involves its civilian society. Walker, *Long and Short-Range Causes of the Peloponnesian War,* in **U.S. Naval War College Center for Continuing Education: Administrative Guide** 34, 39 (1984).

[32] *See generally, e.g.* **S. Karnow, Vietnam: A History** (1983).

[33] Statement of President Bush, news conference, Aug. 22, 1990, 26 **Weekly Compil. of Presid. Docts** 1281 (No. 34, 1990).

[34] As such, it is published at 59 Stat. 1031, T.S. No. 993. As part of a compromise, two Soviet republics —the Ukraine and Byelorussia, were given votes along with the USSR to counterweight the six British Commonwealth nations who were original members. Given today's situation in the Soviet Union, these votes may be exercised more independently in the future. Saudi Arabia and Iraq were also original members; Kuwait became a member later.

[35] For the early history of the United Nations and its antecedents, *see* **L. Goodrich, E. Hambro & A. Simons, Charter of the United Nations** (3d rev. ed. 1969); **R. Russell, A History of the United Nations Charter** (1958).

[36] *See supra* note 10.

[37] *See, e.g.* S.C. Res. 678, discussed *supra* in the text following note 26. Iraq probably hoped to invoke the "Uniting for Peace" process of the General Assembly. Faced with Soviet vetoes in the Council, the United States led efforts to use the language of **U.N. Charter**, art. 11(1) and the recommendatory (*i.e.* nonbinding) authority of the Assembly to prosecute action against aggressors. G.A. Res. 377, U.N.Doc.A/1481 (1950), *reprinted in* 45 **Am. J. Int'l L. Supp.** 1 (1953); Taubenfeld, *International Actions and Neutrality, 47* **Am. J. Int'l L.** 377, 390-94 (1955). In the Rhodesian situation, *see supra* note 28, the Assembly initially took action but then brought the issue to the Council's attention, as permitted by **U.N. Charter**, art. 11(1). G.A. Res. 2012, U.N. Doc. A/RES/2012 (1965); G.A. Res. 2022, U.N. Doc. A/RES/2022 (1965); G.A. Res. 2024, U.N. Doc. A/RES/2024 (1965), *reprinted in* 5 **Int'l Legal Mat'ls** 161-66 (1966).

[38] *Cf.* Ajami, *supra* note 9, at 1-2.

[39] 22 **U.S.C.** §§ 287d, 287d-1 (1988).

[40] *See supra* note 28 and accompanying text.

[41] North Atlantic Treaty, Apr. 4, 1949, art. 6, 68 Stat. 2241, 2244, T.I.A.S. No. 1964, 34 **U.N.T.S.** 243, 246, as modified by Protocol to the North Atlantic Treaty on

Accession of Greece and Turkey, Oct. 17, 1951, 3 U.S.T. 43, 44, T.I.A.S. No. 2390, 126 U.N.T.S. 350.

[42]Letter of U.S. Secretary of State Daniel Webster to U.K. Ambassador Lord Alexander B. Ashburton, Aug. 6,1842, 2 **J. Moore, Digest of International Law** 412 (1906); letter of Webster to U.K. Minister Henry S. Fox, Apr. 24, 1841, 1 **The Papers of Daniel Webster: Diplomatic Papers** 58, 67 (K. Shewmaker ed. 1983). 2 **J. Moore,** *supra* at 24-30, 409-14, reprints the principal diplomatic correspondence.

[43]*See generally* Note, *Interference with Non-National Ships on the High Seas: Peacetime Exceptions to the Exclusivity Rule of Flag-State Jurisdiction,* 22 **Vand. J. Transnat'l L.** 1161, 1206-22 (1989), which summarizes high seas incidents. *See also* Bunn, *International Law and the Use of Force in Peacetime: Do U.S. Ships Have to Take the First Hit?,* 39 **Nav. War Coll. Rev.** 70 (No. 3, 1986).

[44]Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), 1986 I.C.J. 14, 110-11.

[45]**I.C.J. Statute,** arts. 38(1)(d), 59. The ICJ thus follows the civil law tradition of most of continental Europe and other nations.

[46]**I.C.J. Statute,** art. 36.

[47]Case Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), 1986 I.C.J. 14, 26-28 (merits). *See also* 1984 *id.* 392, 431-36 (jurisdiction).

[48]Case Concerning United States Diplomatic and Consular Staff in Tehran (U.S. v. Iran), 1980 I.C.J. 3.

[49]*See supra* notes 10 and 45.

[50]*See supra* notes 14-15 and accompanying text.

[51]*See supra* note 21 and accompanying text.

[52]Carriage of Goods By Sea Act (COGSA), § 4(2)(g), 46 U.S.C. § 1304(2)(g) (1988). Because of a U.S. Senate reservation, COGSA controls over the parallel International Convention for the Unification of Certain Rules Relating to Bills of Lading for the Carriage of Goods By Sea, Aug. 24, 1924, 51 Stat. 233, T.S. No. 931, 120 L.N.T.S. 155. Other treaties may supersede COGSA some day. *See generally* **T. Schoenbaum, Admiralty and Maritime Law** § 9-7 (1987) (Visby, Hague Rules, in force for many seafaring nations).

[53]*See supra* note 20.

[53]*See* Dames & Moore v. Regan, 453 U.S. 654 (1981) for the U.S. claims aspects and Case Concerning U.S. Diplomatic and Consular Staff in Tehran (U.S. v. Iran), 1980 I.C.J. 3, for the international claims.

[55]See R.J. Reynolds Tobacco Co. v. Government of Iran, No. C-79-734-WS (M.D.N.C. Nov. 29, 1979); R.J. Reynolds Tobacco Co. v. Government of Iran, No. 79-CIV-6420 (S.D.N.Y. Nov. 29, 1979); R.J. Reynolds Tobacco Co. v. Government of Iran, No. 79-CIV-6852 (S.D.N.Y. Nov. 30, 1979). For resolution of the claim on the international plane in the Iran-U.S. Claims Tribunal, *see* R.J. Reynolds Tobacco Co. v. Government of Iran, 7 Iran-U.S. Claims Tribunal Rep. 181 (1984) (partial award); 8 *id.* 55 (1985) (final award).

[56]28 U.S.C. §§ 1332(a)(2) — 1332(a)(4) (1988).

[57]*Id.* § 1391(d) (1988) (alien may be sued in any district). Related issues that crop up frequently in international litigation are forum non conveniens, Piper Aircraft Co. v. Reyno, 454 U.S. 235 (1983); and the validity and application of forum selection clauses, Stewart Org., Inc. v. Ricoh Corp., 487 U.S. 22 (1988); The Bremen v. Zapata Off Shore Co., 407 U.S. 1 (1972).

[58]Many recent Supreme Court cases have involved foreign parties directly or indirectly in contacts analysis: Asahi Metal Indus. v. Superior Ct., 466 U.S. 408 (1987); Helicopteros Nacionales de Colombia v. Hall, 466 U.S. 408 (1984); Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee, 456 U.S. 694 (1982); World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980). Even the "tag" jurisdiction case considered decisions where foreign parties' agents were served with process while within the United States. Burnham v. Superior Ct., 110 S.Ct. 2105, 2121 n. 4, (1990) (Brennan, J., concurring), citing, inter alia, Amusement Equip., Inc. v. Mordelt, 779 F.2d 264 (5th Cir. 1985). Congress has legislated a jurisdictional filter for cases involving the Foreign Sovereign Immunities Act of 1976. *See* 28 U.S.C. §§ 1604-05 (1988).

[59]Volkswagen Atkiengesellschaft v. Schlunk, 486 U.S. 694, (1988) stated that compliance with the Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters, Nov. 15, 1965, 20 U.S.T. 361, T.I.A.S. No. 6638, 658 U.N.T.S. 163, is mandatory. The state courts are now wrestling with Convention issues. *See, e.g.* Hayes v. Evergo Tel. Co., 100 N.C. App. 474, 397 S.E.2d 325 (1990). An Inter-American Convention on Letters Rogatory, Jan. 30, 1975, _____ U.S.T. _____, T.I.A.S. No. _____, *reprinted in* 14 **Int'l Legal Mat'ls** 339 (1975), and its Additional Protocol, May 8, 1979, _____ U.S.T. _____, T.I.A.S. No. _____, *reprinted in* 18 **Int'l Legal Mat'ls** 1238 (1979), is now also in effect for the United States. *See also* **Fed. R. Civ. P.** 4(e), 4(i), amendments for which have been proposed in 127 **F.R.D.** 237, 266-99 (1990). For analysis of the treaties, *see* Reisenfeld, *Service of Process Abroad,* 24 **Int'l Lawyer** 67 (1990) and Low, *International Judicial Assistance Among the American States — The Inter-American Conventions,* 18 *id.* 705 (1984).

[60]*Cf.* Foreign Sovereign Immunities Act of 1976, as amended, 28 U.S.C. §§ 1330, 1391(f), 1441(d), 1602-11 (1988). A sovereign immunity defense may bar many claims brought under, *e.g.,* the Alien Tort Statute, *id.* § 1350 (1988), Argentine Republic v. Amerada Hess Shipping Corp., 109 S.Ct. 683 (1989), thus limiting Filartiga v. Pena-Irala, 630 F.2d 876 (2d Cir. 1980). In other circuits use of § 1350 has been curtailed by interpretation of the statute. *See, e.g.,* Tel Oren v. Libyan Arab Republic, 726 F.2d 774 (D.C. Cir. 1984), *cert. denied,* 470 U.S. 1003 (1985). Individual rights claims under treaties may suffer similar fates. If the treaty is non-self-executing, there must be implementing legislation; the treaty must confer a private right of action in the claimant too. *See, e.g.* Dreyfus v. Von Finck, 534 F.2d 24 (2d Cir.), *cert. denied,* 429 U.S. 835 (1976).

[61]W.S. Kirkpatrick & Co. v. Environmental Tectonics Corp., 110 S.Ct. 701 (1990), which runs through the principal cases. *See also* 22 U.S.C. §§ 2370(e)(1) —2370(e)(2) (1988), superseding Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964) in part; 9 U.S.C. § 15.

[62]Interamerican Ref. Corp. v. Texaco Marcaibo, Inc., 307 F.Supp. 1291 (D.Del. 1970); **Restatement (Third),** *supra* note 5, § 441.

[63]*See, e.g.* Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, Mar. 18, 1970, 23 U.S.T. 2555, T.I.A.S. No. 7444, 847 U.N.T.S. 231, as interpreted by Societe Nationale Industrielle Aerospatiale v. United States Dist. Ct., 482 U.S. 522 (1987), analyzed in Note, 23 **Wake Forest L. Rev.** 371 (1988); *see also* **Restatement (Third),** *supra* note 5, § 442.

[64]*See, e.g.* Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, Oct. 5, 1961, 33 U.S.T. 883; T.I.A.S. No. 10072, 527 U.N.T.S. 189; **Fed. R. Civ. P.** 44.1.

[65]Somportex, Ltd. v. Philadelphia Chewing Gum Corp., 453 F.2d 435 (3d Cir. 1971); **Uniform Foreign Money Judgments Recognition Act,** 13 U.L.A. 263 (1980).

[66]Use of federal common law is frequent in the international arena as well as in admiralty. *See generally* Verlinden B.V. v. Central Bank of Nigeria, 461 U.S. 480 (1983); Texas Indus., Inc. v. Radcliff Mat'ls, Inc., 451 U.S. 630, 640-43 (1981). The reach of national law may be an issue too. *See* **Restatement (Third),** *supra* note 5, §§ 402-03.

[67]Two treaties and their implementing legislation govern many international arbitrations: Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 21 U.S.T. 2517, T.I.A.S. No. 6997, 330 U.N.T.S. 3, implemented by 9 U.S.C. §§ 201-08 (1988); Inter-American Convention on International Commercial Arbitration, Jan. 30, 1975, _____ U.S.T. _____, T.I.A.S. No. _____, *reprinted in* 14 **Int'l Legal Mat'ls** 336 (1975), implemented by Act of Aug. 15, 1990, Pub. L. No. 101-369, 104 Stat. 448-49, to be codified as 9 U.S.C. §§ 301-07.

[68]*E.g.* Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, _____ U.S.T. _____, T.I.A.S. No. _____, *reprinted in* 51 Fed. Reg. 10498 (1986).

[69]Criminal practice issues range from crimes with an international aspect, *e.g.* hijacking, Convention for the Suppression of Unlawful Seizures of Aircraft, Dec. 16, 1970, 22 U.S.T. 1641, T.I.A.S. No. 7192, implemented by 49 U.S.C. App. § 1472(i) (1988); to extradition, *e.g.* Extradition Treaty, Jan. 25, 1980, Mexico-United States, 31 *id.* 5059, T.I.A.S. No. 9656; and evidence procurement, Treaty on Mutual Assistance in Criminal Matters, Jan. 23, 1977, Switzerland-United States, 27 *id.* 2019, T.I.A.S. No. 8302, 1052 U.N.T.S. 61. Even after conviction and sentence, international law may provide for return of the prisoner to the nation whose citizenship he or she holds for service of the sentence, *e.g.* Treaty on the Execution of Penal Sentences, Nov. 25, 1976, Mexico-United States, 28 U.S.T. 7399, T.I.A.S. No. 8718.

[70]*See supra* note 53 and accompanying text; Convention for the Unification of Certain Rules of Law With Respect to Assistance and Salvage at Sea, Sept. 23, 1910, 37 Stat. 1658, T.S. No. 576; Convention on the International Regulations for Preventing Collisions at Sea, Oct. 20, 1972, 28 U.S.T. 3459, T.I.A.S. No. 8587.

[71]The United States has many bilateral income and estate tax treaties in force around the world. One coercive feature of the Comprehensive Anti-Apartheid Act of 1986 required the Executive to denounce the U.S. income tax treaty with South Africa. 22 U.S.C. § 5063 (1988), referring to the Convention for Avoidance of Double Taxation and for Establishing Rules of Reciprocal Administrative Assistance With Respect to Taxes on Income, Dec. 13, 1946, South Africa-United States, and Protocol, July 14, 1950, 3 U.S.T. 3830, T.I.A.S. No. 2510. The parallel Convention on Taxes on the Estate of Deceased Persons and Protocol, Apr. 10, 1947 and July 14, 1950, South Africa-United States, *id.* 3792, T.I.A.S. No. 2509, remains in force.

[72]U.N. Convention on Contracts for the International Sale of Goods, Apr. 11, 1980, _____ U.S.T. _____, T.I.A.S. No. _____, *reprinted in* 6C **Benedict on Admiralty,** Doc. 15-20 (1989).

[73]*Introduction to the Study of International Law,* in **L. Henkin, R. Pugh, O. Schachter, & H. Smit, International Law: Cases and Materials** xxx (2d ed. 1987).

[74]*See supra* notes 56 and 60. The legislatures and rules of courts supply law too. *See, e.g. supra* notes 52, 58-61, 65, 67, 71 and **N.C. Gen. Stat.,** ch. 64 (1987) (alien property rights).

CLASS NOTES

1935

Sarah Greason Callaghan graduated cum laude. She was the only female in a class of 45 men.

1949

Marshall B. Hartsfield has taken counsel status with Poyner and Spruill after 40 years of practice with the firm.

1957

Jeff Batts has been named a vice-president of the North Carolina Bar Association. He serves on the Wake Forest Law School Board of Advisors and is a partner in the firm of Batts and Batts.

1958

Judge George W. Hamrick was appointed Chief District Court Judge of the District 27B in 1983. He was elected an officer in the Conference of Chief District Court Judges.

1960

George B. Mast has been named president of the North Carolina Bar Association. Mast is with the law firm of Mast, Morris, Schulz and Mast.

1961

Colonel Alfred A. "Mike" McNamee was selected to be the county attorney for Okeechobee County, FL. He retired from the JAG Corps in 1978 and was a felony prosecutor in Florida's 19th Judicial Circuit.

1963

Fred G. Morrison, Jr. was elected as a deacon at the First Presbyterian Church of Raleigh, NC. He is an administrative law judge and he completed a National Judicial College course on regulatory agencies.

1965

Clyde Wotton and his wife Sandra announce that Lance, their son, will spend the spring semester of college in Spain in a study abroad program.

1966

Captain F. Stephen Glass is a partner in the Raleigh firm of Poyner and Spruill. He served as staff judge advocate for Readiness Command Six in Washington, D.C..

Lawrence S. Groff is with the law firm of Oster and Groff in Lincoln, Rhode Island.

1970

Brigadier General Roscoe Lindsay, Jr. had his "Official Pinning Ceremony" on July 13, 1990. Lt. Governor Gardner and General Lindsay's wife, Joann, pinned the stars denoting his new rank. He is the commander of the 30th Infantry Brigade (Mechanized) (Separate).

1971

H. Clay Hemric, Jr. was elected chair of the litigation section of the N.C. Bar Association. He is married to Nancy Garlick Hemric ('83) who practices law with him in the law firm Hemric, Hemric, and Hemric, P.A..

1973

J. B. Cheshire, V was elected to the International Society of Barristers and was appointed Chairman of the Criminal Law Specialization Commission of the N.C. State Bar, and Chairman of the Criminal Law Section of the N.C. Academy of Trial Lawyers.

James E. Cross Jr. is a board certified specialist in real property law residential transactions. In June, he went white water rafting in Colorado and Utah with nine other businessmen from Oxford.

John L. Pinnix has been named 1990-1991 Chair of the North Carolina Bar Association's Immigration and Nationality Law Committee. He is a partner in the Raleigh firm of Allen and Pinnix. He was managing editor of the *Wake Forest Jurist.*

1974

Beverly T. Beal won a nomination for a newly created Superior Court Judgeship for Caldwell and Burke Counties, District 25A.

1975

Dennis G. Bengtson received a LL.M. from George Washington University. He

is stationed at Portsmouth Naval Hospital as the Service Staff Judge Advocate.

1976

J. Randolph Cresenzo and his wife Julia announce the birth of their twin sons, Joseph Michael and John Victor.

Kenneth R. Jacobson and his wife Amy announce the birth of their daughter, Emily.

William Rose is of counsel to the Los Angeles-based firm of Wyman, Buatzer, Kuchel and Silbert. He has been living in Phoenix, AZ since July 1989 representing American Continental Corporation in its Chapter 11 bankruptcy case.

Linda Ekstrom Stanley is a partner in Nossaman, Gunther, Knox and Elliot in San Francisco, CA.

1977

H. Lee Davis, Jr. is chairman of the Board of Trustees of the N.C. Baptist Childrens' Homes. In 1989, he argued *Patterson v. McClean,* a landmark case, before the U. S. Supreme Court.

Stephen R. "Steve" Little is in private practice in Marion, NC. He has been re-elected to a second four-year term on the Marion City Council. He announces the birth of his second child, Sally Switzer Little.

Daniel Mercer currently serves as an assistant vice president of The First National Bank of Toms River, NJ.

1978

J. Hal Kinlaw, Jr. has been named to the St. Pauls advisory board of United Carolina Bank. He has his own private practice and also serves as attorney for Robeson County.

Barbara DeMay Smith announces the birth of her daughter, Caroline DeMay.

J. Randolph (Randy) Ward of the N.C. Industrial Commission was a candidate in the November 1990 general election for the N.C. Court of Appeals. Ward serves as a member of the Bar Association's Dispute Resolution Committee and the Fourth Circuit Judicial Conference.

1979

James P. Cain has been elected Chairman of the North Carolina Administrative Rules Commission.

George Thomas Davis, Jr. is practicing law in Swan Quarter. He has three children.

1980

G. Les Burke is a partner in Brown, Robbins, May, Pate, Rich, Scarborough and Burke. He has two children.

Sally M. Foster has been promoted to vice-president of contracts at Dun & Bradstreet in Software Services, Inc. in Atlanta, GA.

Karen A. Raschke was has been elected partner at Hunton and Williams. She is also government relations counsel for the Virginia Planned Parenthood affiliates.

1981

Joel A. Berly, III and his wife, Kara, announce the birth of their child, Joel.

Major David S. Jonas is attending the Army JAG School in Charlottesville, VA. He is working on his LL.M. degree with a concentration in criminal law.

Keith C. Martin has become a partner in the law firm of Walsh, Colucci, and Stackhouse. He has one daughter, Julia (10 months) and another child is expected.

David L. Narkiewicz is a partner in Hunn, Shelly and Narkiewicz. He was also elected as a member of the Board of Directors of the Montgomery County Pennsylvania Bar Association.

Kem Mims Schroeder is an associate at Petree, Stockton and Robinson. She was editor of the *Wake Forest Jurist.*

Captain Scott W. Singer was recalled to active duty with the U. S. Air Force last year. He is a judge advocate assigned to Headquarters Eighth Air Force at Barksdale AFB (Shreveport), LA. He specializes in government contract and civil law. He and his wife Marian are proud to announce the birth of their first child, a son, Peter.

Julia Hines Turner has become vice-president and general counsel of Atlantic Casualty Insurance Company. She resides in Goldsboro, NC.

1982

Raymond Daniel Brady announces the birth of his first child, Katherine Shannon.

Carl A. Goldman is a partner in Williams, Brasfield, Wertz, Fuller, Goldman, and Freeman. He married Loren Weimer.

C. Scott Hester has been named head of the civil litigation division of Reinman, Harrell, Graham, Mitchell and Watt-

wood, P.A. which is based in Melbourne, FL. Scott and his wife, Rhonda announce the birth of their third son, Jace.

Melissa E. McMorries serves as general counsel with the Regina Company. She married Jonathan D. Simmons.

H. Randolph and **Elizabeth N. Sumner** are practicing with Muller, Holland, Cooper, Morrow, Wilder, and Sumner, PA. They have two children.

Rob Turner joined Beverly Enterprises as senior litigation counsel. He lives in Norfolk, VA with his wife Jocelyn and their son.

Warren T. Wolfe has been in the Marine Corps for seven years. He has two boys, Taylor and Colin.

1983

Linda King Appleby is a partner in the Fort Lauderdale, FL firm of Fleming, O'Bryan and Fleming, PA. She is the first female partner.

Marcia H. Armstrong is a board certified specialist in family law. She and her husband Lamar announce the birth of their third child, Marcia Eason Armstrong.

Kenneth D. Bell was a republican nominee to the U.S. House of Representative, NC-5. He is married to the former Gayle Adams. He has a son, Kenneth.

Michael Bresson has become a partner at Quarles and Brady, a law firm based in Milwaukee, WI.

John Motsinger married Elizabeth (Kavyo) Sykes on June 18, 1989. They announce the birth of their son, John Jr., born July 5, 1990.

Lesley G. Philpott is a partner in the firm of Womble, Carlyle, Sandridge and Rice. She practices primarily in the area of corporate law, and mergers and acquisitions.

1984

James P. Cain, an attorney with the law firm of Petree, Stockton, Robinson, has been elected Chairman of the N.C. Administrative Rules Commission.

Cynthia Humphries has joined the real estate department of Akin, Gump, Strauss, Hauer, and Feld in Washington, DC.

Michael D. Hurst has become a shareholder of House and Blanco, P.A., a 16-member law firm based in Winston-Salem, NC.

Robert A. J. Lang married Whitney Lauren Smith on July 7, 1990.

1985

Rhonda (Kahan) Amoroso works for Long Island Lighting Company as their in-house environmental attorney. She is married to Frank Amoroso.

P. Kevin Carwile and his wife Kimberly announce the birth of their son, Justin.

J. Anthony Doran is an attorney for the bank closing division of the FDIC in Knoxville, TN.

Robert Steve Esnor joined Alston and Bird as an associate in the administrative law department.

J. Coburn Powell has been named to the Whiteville advisory Board of United Carolina Bank. Powell is a partner in Powell and Powell.

Anna Mills Wagoner has been elected judge of Rowan County.

1986

James West Bryan has joined the Greensboro firm of Adams, Kleemeier, Hagan, Hannah, and Fouts.

Mark C. Holloway has been promoted to vice-president of Booke and Company.

Beth Murphy Snover and her husband, Jay, announce the birth of their daughter, Sally Rose. Snover is an attorney with Smith, Helms, Mulliss, and Moore.

G. Patteson Williams, II and Shawn Schrimsher of Charlotte announce the birth of their son, George.

1987

Pattie S. Cartwright and her husband Captain Dan Grymes announce the birth of their son, Jacob.

Julia A. (Davidson) Close is with the firm of Currie and Kendall, P.C. in Midland, MI. She is married to Craig D. Close.

Lisa Singer Costner is an associate with the law firm of Greeson, Grace, and Gatto, P.A. in Winston-Salem. She is president of the Forsyth County Women Attorneys Association. She married Robert Costner, II in June, 1990.

Elizabeth Horton has been named an associate at the Winston-Salem office of Petree, Stockton and Robinson. Horton previously worked as an assistant U.S. attorney in Miami, FL.

Michael A. Usan is a felony prosecutor in the U.S. Air Force Trial Judiciary, 5th Circuit at Travis AFB in California.

1988

Lee W. Gavin is with the firm of

Parker and Parker, P.A. in Raleigh.

Roberta Wood Gavin concluded her clerkship with the Honorable Sidney Eagles, Jr. of the N.C. Court of Appeals. She is now an associate with Haynsworth, Baldwin, Johnson and Graves.

Willie Lee Nattiel, Jr. has joined Ron A. White, P.C. of Philadelphia. Nattiel was formerly on the major trial unit of the Public Defender Office in Philadelphia. He was nominated Who's Who Among Practicing Trial Attorneys for 1990.

Carl Salisbury is a partner in Anderson, Kill, Olick and Oshinsky in New York City. He specializes in environmental litigation.

1989

Michael Bennett formed the partnership with Richard Stover ('64) in King, NC. Bennett and his wife Ronda celebrated the birth of their second son, Alexander.

James P. Hutcherson joined Womble, Carlyle, Sandridge and Rice as an associate. He formerly served as a judicial clerk for the Honorable Hiram Ward, a senior U.S. District Judge for the Middle District of N.C..

Katie O'Conner is an associate with Everett, Gaskins, Hacock, and Stevens. She married Don Worsley in 1989.

Robert B. Richbourg is an associate judge in the juvenile court of the Alapaha Judicial Circuit in Georgia. He is also president-elect of the Berrien County Chapter of the American Heart Association.

Franklin Scott Templeton is with Lore and McClearen in Raleigh. He completed his 1989-1990 judicial clerkship with Justice Burley B. Mitchell, Jr. of the N.C. Supreme Court.

1990

Victoria Goldstein has joined the Greensboro firm of Nichols, Caffrey, Hill, Evans and Murrelle.

Adelia Taylor Schiffman joined J. Sam Johnson in his practice of law in Greensboro, NC.

WHAT'S NEW? *Wake Forest Jurist* would like to hear from all law alumni about any new developments. Kindly take a few moments to fill out the form below and return it to *Wake Forest Jurist,* Wake Forest University, School of Law, P.O. Box 7206, Winston-Salem, NC 27109.

Name: _____ Year of Law School Graduation: _____

Business Address: ☐ (check if new address) _____

_____

Business Phone #: ( ) _____

Home Address: ☐ (check if new address) _____

_____

Brief description of law practice or business: _____

_____

Public offices, professional, and civic honors with dates: _____

_____

Personal items of current interest (i.e. marriage, birth of child): _____

_____

_____

WAKE FOREST UNIVERSITY SCHOOL OF LAW LIBRARY

SCHEDULE OF OPERATION FOR SPRING 1991

REGULAR HOURS OF OPERATION

Monday — Thursday	7:00 a.m. — Midnight
Friday	7:00 a.m. — 10:00 p.m.
Saturday	9:00 a.m. — 9:00 p.m.
Sunday	10:00 a.m. — Midnight

SPRING BREAK

Friday	March	8	7:00 a.m. — 5:00 p.m.
Saturday	March	9	CLOSED
Sunday	March	10	CLOSED
Monday	March	11	8:30 a.m. — 5:00 p.m.
Friday	March	15	8:30 a.m. — 5:00 p.m.
Saturday	March	16	CLOSED
Sunday	March	17	2:00 p.m. — Midnight

TENTATIVE POST EXAM PERIOD

Tuesday	May	14	7:00 a.m. — 5:00 p.m.
Wednesday	May	15	8:30 a.m. — 5:00 p.m.
Friday	May	17	8:30 a.m. — 5:00 p.m.
Saturday	May	18	CLOSED
Sunday	May	19	CLOSED
Monday	May	20	8:30 a.m. — 5:00 p.m.
Friday	May	24	8:30 a.m. — 5:00 p.m.
Saturday	May	25	CLOSED
Sunday	May	26	CLOSED
Monday	May	27	SUMMER HOURS BEGIN

SUMMER HOURS

Monday — Thursday	8:30 a.m. — 10:00 p.m.
Friday	8:30 a.m. — 5:00 p.m.
Saturday	10:00 a.m. — 5:00 p.m.
Sunday	3:00 p.m. — 10:00 p.m.

WAKE FOREST UNIVERSITY
SCHOOL OF LAW

1991 SPRING LEGAL EDUCATION SCHEDULE

Practical Legal Ethics
Jan. 11, 1991
Charlotte, NC (Video)
Ben Craig Center
MCLE: 6.0 hrs. (4 PSC)

Tenth Annual Review
Jan. 17-18
Winston-Salem, NC (Video)
Holiday Inn, North
MCLE: 12.0 hrs. (2 EC)

Practical Legal Ethics
Feb. 1
Raleigh, NC (Video)
McKimmon Center
MCLE: 6.0 hrs. (4 PSC)

Estate Planning
Feb. 7-8
Raleigh, NC (Live)
McKimmon Center
MCLE: 12.0 hrs. (9 PSC, 2 EC)

Practical Legal Ethics
Feb. 22
Asheville, NC (Video)
Buncombe Community College
MCLE: 6.0 hrs. (4 PSC)

Contract Drafting and Practice
Feb. 28-March 1
Raleigh, NC (Live)
North Raleigh Hilton
MCLE: 12.0 hrs.

Contract Drafting and Practice
March 7-8
Winston-Salem (Video)
Ramada Hotel Downtown
MCLE: 12.0 hrs.

Estate Planning
March 14-15
Winston-Salem, NC (Video)
Holiday Inn, North
MCLE: 12.0 hrs. (9 PSC, 2 EC)

Estate Planning
March 21-22
Asheville, NC (Video)
Buncombe Community College
MCLE: 12.0 hrs. (9 PSC, 2 EC)

Torts
April 4-5
Raleigh, NC (Live)
North Raleigh Hilton
MCLE: 12.0 hrs.

Estate Planning
April 11-12
Charlotte, NC (Video)
Ben Craig Center
MCLE: 12.0 hrs. (9 PSC, 2 EC)

Criminal Advocacy
April 18-19
Raleigh, NC (Live)
McKimmon Center
MCLE: 12.0 hrs. (9 PSC, 2 EC)

Torts
April 25-26
Holiday Inn, North
MCLE: 12.0 hrs.

Torts
May 2-3
Greenville, NC (Video)
To be announced
MCLE: 12.0 hrs.

Criminal Advocacy
May 9-10
Fayetteville, NC (Video)
To be announced
MCLE: 12.0 hrs. (9 PSC, 2 EC)

Criminal Advocacy
May 16-17
Winston-Salem, NC (Video)
Holiday Inn, North
MCLE: 12.0 hrs. (9 PSC, 2 EC)

Contract Practice
May 23-24
Kiawah Island, SC (Live)
Kiawah Island Inn
MCLE: 12.0 hrs.

Current Employment
May 23-24
Hilton Head, SC (Live)
Mariner's Inn
MCLE: 12.0 hrs

Contract Practice
May 30-31
Charlotte (Video)
Adam's Mark Hotel
MCLE: 12.0 hrs.

Torts
May 30-31
Charlotte, NC (Video)
Ben Craig Center
MCLE 12.0 hrs.

Contract Drafting and Practice
May 30-31
Charlotte, NC (Video)
Adam's Mark Hotel
MCLE: 12.0 hrs.

Torts
June 6-7
Asheville, NC (Video)
Grove Park Inn
MCLE: 12.0 hrs

Criminal Advocacy
June 13-14
Charlotte, NC (Video)
Ben Craig Center
MCLE: 12.5 hrs. (9 PSC, 2 EC)

Criminal Advocacy
June 27-28
Asheville, NC (Video)
Grove Park Inn
MCLE: 12.0 (9 PSC, 2 EC)

11th Annual Review
November 8-9
Charlotte, NC (Live)
Adam's Mark Hotel
MCLE: 12.0 hrs. (2 EC)

General Practice
November 21-22
Asheville, NC (Video)
To be announced

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